(1)

Supreme Court, U.S.
FILED

No. 02-1740 MAY 29 2003

In The
Supreme Court of the United States

VICTORIA JACKSON GRAY ADAMS, et al.,

Appellants,

v.

FEDERAL ELECTION COMMISSION, et al.,

Appellees.

On Appeal To The United States District Court, District Of Columbia

JURISDICTIONAL STATEMENT

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QUESTION PRESENTED

Whether the District Court erred in ruling that a challenge to the increased "hard money" contribution limits found in sections 304, 307 and 319 of the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81, 97-100, 102-03, and 109-112 (codified as amended at 2 U.S.C. §§ 441a and 441a-1) is nonjusticiable due to lack of cognizable injury, even though the increases will confer preponderant electoral power on wealthy donors and will effectively exclude candidates and voters without access to networks of large donors from electoral participation, in violation of the equal protection guarantee incorporated by the due process clause of the Fifth Amendment to the United States Constitution.

PARTIES

Actual parties to the proceedings in the United States District Court were:

(1) Victoria Jackson Gray Adams, Carrie Bolton, Cynthia Brown, Derek Cressman, Victoria Fitzgerald, Anurada Joshi, Nancy Russell, Kate Seely-Kirk, Rose Taylor, Stephanie L. Wilson, California Public Interest Research Group, Massachusetts Public Interest Research Group, New Jersey Public Interest Research Group, United States Public Interest Research Group, Fannie Lou Hamer Project, and Association Of Community Organizers For Reform Now, plaintiffs, appellants herein,

(2) The United States of America, defendant,

(3) The Federal Communications Commission, defendant,

(4) The Federal Election Commission, defendant,

(5) John Ashcroft, in his capacity as Attorney General of the United States, defendant,

(6) Sen. John McCain, Sen. Russell Feingold, Rep. Christopher Shays, Rep. Martin Meehan, Sen. Olympia Snowe, and Sen. James Jeffords, defendant-intervenors.

CORPORATE DISCLOSURE STATEMENT

None of the appellants has a parent corporation, and no publicly held company owns 10% or more of the stock of any of the appellants.

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OPINIONS BELOW

The opinions of the three-judge United States District Court for the District of Columbia are not yet reported. In accordance with this Court's order of May 15, 2003 (Nos. 02-M-98 and 02-M-99), they are omitted from the appendix that is bound with this jurisdictional statement and will be reprinted in a single appendix to be filed on behalf of all appellants.

JURISDICTION

The final judgment of the court below was entered on May 2, 2003. The *Adams* appellants, Victoria Jackson Gray Adams, Carrie Bolton, Cynthia Brown, Derek Cressman, Victoria Fitzgerald, Anurada Joshi, Nancy Russell, Kate Seely-Kirk, Rose Taylor, Stephanie L. Wilson, California Public Interest Research Group, Massachusetts Public Interest Research Group, New Jersey Public Interest Research Group, United States Public Interest Research Group, Fannie Lou Hamer Project, and Association Of Community Organizers For Reform Now, filed their notice of appeal on May 4, 2003. *See* Appendix ("App.") 1a. The jurisdiction of this Court is invoked under the Bipartisan Campaign Finance Reform Act of 2002, Pub. L. No. 107-155, § 403(a)(3), 116 Stat. 81, 113-114 (2002).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This constitutional challenge is brought pursuant to the due process clause of the Fifth Amendment to the

United States Constitution, set forth at App. 3a. The challenged sections of the Bipartisan Campaign Finance Reform Act of 2002 are codified at 2 U.S.C. §§ 441a and 441a-1 and set forth beginning at App. 4a.

STATEMENT OF THE CASE

The case arises out of radical increases in the limits on individual campaign contributions contained in the Bipartisan Campaign Finance Reform Act of 2002 (BCRA), §§ 304, 307 and 319, 116 Stat. 81, 97-100, 102-03, and 109-112 (codified as amended at 2 U.S.C. §§ 441a and 441a-1). These provisions raise the amount that an individual may contribute to a federal campaign from $1,000 per election to $2,000 per election. BCRA § 307. The individual contribution limit is further raised in races where a candidate faces an opponent who has spent over a threshold amount in personal funds. Under such circumstances, a candidate for Representative may receive individual contributions of up to $3,000 per election, and a Senate candidate may receive individual contributions of up to $12,000 per election. BCRA §§ 304 and 319.

The appellants are candidates lacking personal wealth and access to large networks of wealthy donors; non-wealthy voters supporting such candidates; and organizations representing the interests of non-wealthy voters. They assert that the increased contribution limits deprive them of the equal opportunity to participate in all integral aspects of the electoral process, in violation of the equal protection guarantee incorporated by the due process clause of the Fifth Amendment to the United States Constitution. Voluminous evidence submitted by the

appellants demonstrates that by increasing exponentially the amount of money that the highest donors can give to their favored candidates, the challenged BCRA provisions will magnify the influence of the wealthy in the electoral process to such an extent that candidates lacking personal wealth or access to large networks of high donors will effectively be excluded from electoral competition. The ruling of the three-judge district court, that the appellants lack standing because there is no cognizable injury fairly traceable to the BCRA, Per Curiam op. at 10-11; Henderson op. at 339-343, fails to take adequate account of this evidence.

A. The electoral exclusion of candidates lacking personal wealth or access to large networks of wealthy donors.

Under the BCRA hard money limit increases, candidates without access to networks of wealthy donors will be effectively excluded from seeking political office, as the war chests of well-connected candidates grow and the financial bar rises far beyond the reach of those lacking such connections. Candidates with a financial advantage nearly always win elections, and won congressional office 94 percent of the time in the 2000 general election. *Adams* Exh. 1, Declaration and Expert Report of Derek Cressman ("Cressman Decl."), ¶2, App. 22a. A large proportion of winning campaigns are funded through maximum contributions; maximum donations made up 60 percent of the individual funds raised by winning candidates in the 2000 election cycle. *Id.* ¶5. These pandemic realities are confirmed by numerous individuals who have previously run for federal office and are considering doing so again, but who testified that BCRA increases would deter them from

future candidacies because they lack access to large networks of maximum donors.[1] Senator Russell Feingold, a defendant-intervenor and a co-sponsor of BCRA, admitted that the hard money limit increases will likely further enable certain candidates to build up campaign war chests, "potentially discourag[ing] some people from running" for federal office. Deposition of Russell Feingold ("Feingold Deposition"), September 9, 2002, 264, line 14 to 265, line 3.

B. The exclusion of non-wealthy voters from the electoral process.

In opposing the hard money limit increases, Senator Christopher Dodd eloquently described how increased hard money limits would marginalize the great majority of voters to the point of "de facto exclusion."

> [W]hat are we doing here by raising these amounts? We are moving further and further and further away from the overwhelming majority of Americans. I would like to see the average American participate in the electoral process of the country . . . I do not see many campaigns that are going to bother any longer with smaller donors. It is the *de facto exclusion* of more than 99 percent of the American adult population who could support, financially, the political process in this country, that worries me the most.

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[1] *See Adams* Exh. 19, Declaration of Dr. Thomas A. Caiazzo, App. 79a; *Adams* Exh. 20, Declaration of Gail Crook, App. 83a; *Adams* Exh. 21, Declaration of Victor Morales, App. 88a; *Adams* Exh. 22, Declaration of Cynthia Brown ("Brown Decl."), App. 93a; *Adams* Exh. 23, Declaration of Ted Glick ("Glick Decl."), App. 96a.

Congressional Record – Senate, March 27, 2001, S2965 (emphasis added).

If elite donors are permitted to double the hard money they now channel to their favorite candidates, the candidates favored by non-wealthy voters and communities will not stand a chance. Most Americans are unable to make contributions anywhere near the BCRA limit. A $2,000 contribution would represent nearly five percent of the median U.S. family income, which U.S. Census Bureau data puts at $42,228. *See* U.S. Census Bureau, "Income 2001," *available at* http://www.census.gov/hhes/income/income01/inctab1.html. The $12,000 limit applicable in some races under the millionaire provisions would represent over 28 percent of median income.

The ability of the average person to have a meaningful impact on elections will diminish as the electoral weight of the largest donors increases. Voter-plaintiffs and other non-wealthy voters have testified that the hard money increases would make their vote less meaningful, and that they would therefore be discouraged from forms of electoral participation such as volunteering, making small contributions, and even voting itself. As one voter-plaintiff testified, "[t]he increases in the hard money contribution limits make it no longer conceivable that I can access the political process. They undermine the meaning and value of my vote." *Adams* Exh. 25, Declaration of Carrie Bolton ("Bolton Decl."), ¶12, App. 106a.[2] Representatives Hilliard

[2] *See also Adams* Exh. 24, Declaration of Victoria Jackson Gray Adams ("Adams Decl.") ¶5, App. 101a ("The largest donors get more attention, and when the ceiling is raised the voices of small contributors and voters like myself will be lost."); *Adams* Exh. 30, Declaration of

(Continued on following page)

and Thompson testified that the increases will harm the ability of low- and moderate-income communities, and communities of color, to elect the representatives of their choice.[3]

C. The predominance of the high donors in the electoral process.

The appellants presented substantial, uncontroverted evidence that the challenged provisions would give grossly disproportionate weight in the electoral process to a small portion of the population able to contribute the maximum amount permitted. Only a small minority of the voting-age population, 0.11 percent, gave maximum hard money contributions to federal candidates in the 2000 election cycle, yet these contributions constituted nearly half of all individual funds raised. Cressman Decl. ¶¶4-5, App. 22a-23a. These highest donors come disproportionately from the ranks of corporate management and wealthy communities, and are overwhelmingly white and male. *See Adams* Exh. 2, Declaration and Expert Report of Prof. John Green, ¶3 ("Green Decl."), App. 31a. The challenged increases in

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Chris Saffert, ¶18, App. 125a-126a ("The effect of the contribution limit increases will be to drown out the voices of people from low and moderate-income communities . . ."); *Adams* Exh. 26, Declaration of Daryl Irland, App. 107a; *Adams* Exh. 27, Declaration of Anuradha Joshi; *Adams* Exh. 28, App. 110a, Declaration of Howard Lipoff, App. 113a; *Adams* Exh. 29, Declaration of Nancy Russell, App. 116a; *Adams* Exh. 31, Declaration of Kate Seely-Kirk, App. 127a; *Adams* Exh. 32, Declaration of Stephanie L. Wilson, App. 130a.

[3] *See* Thompson Deposition, 87, lines 9-12 ("[B]y doubling the hard money contribution, you price low and moderate communities out of the market for electoral participation"); Hilliard Deposition, 103, lines 4-7.

BCRA will "result in increased giving by the elite pool of individual donors to federal campaigns," *Id.*, ¶4, and would permit this elite group to double the disproportionate weight they already enjoy in the electoral process. Indeed, analysis of FEC data for the first quarter of 2003 shows that fully 80 percent of funds raised for primary campaigns came from donors giving over $1,000. *See* U.S. PIRG, "Presidential Candidates Getting More Money from Big Donors," *available at* http://www.pirg.org/democracy/democracy.asp?id2=9950.

Candidates with networks of maximum donors are able to further augment their fundraising advantage by encouraging these donors to bundle (i.e. solicit or facilitate) maximum contributions from business associates, friends and family members. *Adams* Exh. 3, Declaration and Expert Report of Craig McDonald ("McDonald Decl.") ¶5, App. 47a. The BCRA hard money limit increases will multiply the amounts bundled by well-connected donors, giving these donors even greater electoral power. Candidates lacking networks of large donors will be even more greatly disadvantaged when faced with sophisticated bundling operations.

The Bush Pioneer program – the hard money bundling operation employed in the 2000 election cycle by the George W. Bush Presidential Exploratory Committee, Inc., and its successor organization, the George W. Bush For President Committee – exemplifies the disproportionate electoral influence that bundlers enjoy. Each Pioneer was responsible for gathering at least $100,000 in hard money contributions, and the 212 Pioneers channeled over $22 million to the 2000 Bush presidential campaign. *Id.*, ¶13, App. 53a. Under the BCRA increases, this small group could have potentially collected twice as much from the

same number of donors. In fact, press accounts indicate that the Bush campaign for 2004 is asking a new group, called "Texas Rangers," to bundle at least $200,000 each. *See* Sharon Theimer, "Bush Volunteer Fund-Raising Group Formed," Associated Press, May 23, 2003, *available at*; http://www.washingtonpost.com/ac2/wp-dyn/A30660-2003May23.html; Richard A. Oppel Jr., "Bush's Heaviest Hitters to Be Called Rangers," New York Times, May 24, 2003, *available at* http://www.nytimes.com/2003/05/24/politics/campaigns/24DONA.html?ex=1054353600&en=ff0eeb59d76f3bb5&ei=5062&partner=GOOGLE.

The Pioneer program also demonstrates that those who bundle contributions often do so with the aim of gaining enhanced access and influence with elected officials. The Pioneers – who were comprised largely of corporate executives and lobbyists, McDonald Decl., ¶10, App. 50a-51a – were each assigned a tracking number so that the Bush Campaign could record the total amount of money raised by each individual. *See id.*, ¶15; Deposition of John L. Oliver III, 30(b)(6) witness on behalf of Bush for President, Inc., 46, line 10 to 57, line 11, 106, lines 10-16. As wealthy individuals such as the Pioneers are increasingly able to determine electoral outcomes under BCRA, they will also expand their ability to influence legislative outcomes. A wealth of evidence documents the disproportionate access and influence that maximum donors and bundlers enjoy in Congress.[4]

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[4] *See Adams* Exh. 18, Declaration of Pat Williams, former Member of Congress from Montana, ¶4 ("Williams Decl."), App. 77a ("There is no doubt in my mind that those giving the largest contributions expect preferential access and disproportionate influence"); *Adams* Exh. 17,

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D. The entrenchment of incumbents.

By aiding candidates favored by the wealthy, incumbent members of Congress dealt themselves a powerful advantage, for incumbents most often are the favorites of the wealthy. Appellants' expert witnesses Professor Thomas Stratmann, Derek Cressman, and others testified that BCRA's hard money increases will benefit incumbents, who enjoy greater access to large donors than do challenger candidates. *See* Cressman Decl., ¶19, App. 29a; Stratmann Decl., ¶¶5-12, App. 57a-60a. A leading co-sponsor of the BCRA, Defendant-Intervenor Senator Feingold has admitted that the hard money limit increases will benefit incumbent candidates facing challengers without access to wealth. Feingold Deposition 260, lines 7-8.

These predictions are buttressed by evidence documenting incumbents' strong advantages in raising maximum contributions. An analysis of Federal Election

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Declaration of Paul Simon, former U.S. Senator from Illinois, ¶4, ("Simon Decl."), App. 73a ("No member of Congress, not even the most scrupulous, is unaware of his or her largest contributors, and not even the most scrupulous members will ignore them."); Deposition of Representative Earl F. Hilliard, September 5, 2002, 68, lines 18-20, 86, lines 9-15, 95, lines 9-11; Deposition of Representative Bennie G. Thompson, September 19, 2002, 68, lines 16-22. Fact witnesses for the defendants make the same point. *See Adams* Exh. 33, Declaration of Senator Dale Bumpers, former U.S. Senator from Arkansas, ¶14, App. 137a (discussing hard and soft money donors); Deposition of Arnold Hiatt, major hard money donor, September 26, 2002, 102, lines 20-25, 104, lines 5-19. *See also* Stratmann Decl., ¶13-30, App. 60a-67a (documenting evidence that campaign contributions affect legislators' voting behavior). "The increased individual contribution limits will exacerbate the disproportionate access and influence that the largest donors enjoy." Simon Decl., ¶10. App. 74a-75a.

Commission data from the 2000 election cycle finds, "Senate incumbents in 2000 raised, on average, nearly three times as much as their challengers did from donors of $1,000 or more: $1.8 million v. $650,000. House incumbents in 2000 raised more than twice as much from donors of $1,000 or more as their challengers, on average: $178,000 v. $85,000." *Adams* Exh. 35, "Why the Battle over Hard Money Matters: Hard Facts on Hard Money," Public Campaign, App. 152a-153a. Raising the hard money limit would exacerbate the advantage incumbents already have over challengers.

E. The further exclusionary effects of the "millionaire" provisions.

The burdens on non-wealthy candidates described above will increase exponentially in races where a self-funded candidate triggers provisions allowing opponents to raise funds in increments of $3,000 per election in House races, and up to $12,000 per election in Senate races. *See* BCRA §§ 304 and 319. The record demonstrates that when one candidate takes advantage of these "millionaire" provisions to multiply maximum contributions, a competing candidate whose supporters cannot make large donations will be buried in her opponents' cash. Candidates who have in the past faced wealthy, self-funded opponents have testified that the burden of simultaneously confronting a second campaign with vast infusions of cash from wealthy donors would make it impossible for them to compete. For example, North Carolina Senate candidate Cynthia Brown testified, "The people that I know can hardly afford to contribute twenty-five dollars, let alone $12,000. There is no way that any candidate like me can compete under these new conditions. These increases

in the hard money contribution limits would effectively eliminate any future campaign I might hope to wage for the U.S. Senate." Brown Decl., ¶¶8-9, App. 95a; *See also* Glick Decl., ¶6, App. 98a ("It is impossible to participate facing that tremendous disparity in resources. I just do not run in the circles of people who can contribute $12,000.").

F. Proceedings in district court.

The Adams plaintiffs filed a lawsuit in the U.S. District Court for the District of Columbia on May 7, 2002. Count I alleged that the increases in the individual hard money contribution limits contained in BCRA Sec. 307 violate the equal protection guarantee incorporated by the due process clause of the Fifth Amendment to the U.S. Constitution. Count II alleged that the BCRA provisions providing for further contribution limit increases in response to expenditures from personal funds (the "millionaire" provisions), BCRA §§ 304 and 319, similarly violate the Fifth Amendment.

The case was consolidated with ten other challenges to various provisions of the BCRA and assigned to a three-judge panel. A two-day trial based on recorded testimony was held on December 4 and 5, 2002. The defendants and defendant-intervenors presented no evidence counter to that presented by the Adams plaintiffs. Rather, they argued that the plaintiffs' injuries were insufficient to confer standing. Defendants' Opening Brief ("Def. Br.") at 208-209. The three-judge District Court issued a final judgment on May 2, 2003 ruling the claims of the Adams plaintiffs nonjusticiable.

REASONS FOR NOTING PROBABLE JURISDICTION

A. The appellants have presented a cognizable injury implicating core constitutional values of equality.

The appellants' evidence demonstrates that the challenged BCRA provisions will multiply the electoral power of donors able to give the maximum contributions, and will thereby deny any realistic hope of gaining office to candidates drawing their support from non-wealthy voters. While this Court has not previously addressed an equal protection challenge to a law creating inequalities in campaign finance, it has long held that wealth discrimination in elections violates equal protection principles, *see Harper v. Virginia Board of Elections*, 383 U.S. 663 (1966) (poll tax violates equal protection clause of Fourteenth Amendment); *Bullock v. Carter*, 405 U.S. 134 (1972) (candidate filing fees violate equal protection clause); *Lubin v. Panish*, 415 U.S. 709 (1974) (same), and that all citizens are entitled to an equally meaningful vote. *See, e.g., Reynolds v. Sims*, 377 U.S. 533 (1964) (dilution of voting strength based on geography violates equal protection clause of Fourteenth Amendment); *Davis v. Bandemer*, 478 U.S. 109 (1986) (dilution of voting strength of political group is justiciable under equal protection clause). The district court's ruling of nonjusticiabilty, Per Curiam op. at 10-11; Henderson op. at 339-342, stands in direct conflict with the fundamental constitutional values of equality embodied in these cases. It also conflicts with established case law recognizing that an injury to the ability to compete in elections is justiciable. *See, e.g., Int'l. Assn. of Machinists v. FEC*, 678 F.2d 1092 (D.C. Cir. 1982); *Vote Choice, Inc. v. DiStefano*, 4 F.3d 26 (1st Cir. 1993)

(*"Vote Choice"*); *Fulani v. League of Women Voters Educ. Fund*, 882 F.2d 621 (2d Cir. 1989) (*"Fulani I"*).

The only member of the three-judge district court to discuss the court's nonjusticiability ruling was Judge Henderson, who wrote that the appellants "have not suffered an invasion of a *legally protected* interest," because "no one has a 'right to equal influence in the overall electoral process.'" Henderson op. at 340 (citing *Ga. State Conference of NAACP Branches v. Cox*, 183 F.3d 1259, 1263-64 (11th Cir. 1999)) (emphasis in original). As is clear on the face of the appellants' pleadings, they seek not equal influence but an equal ability to participate in the electoral process regardless of economic status. This is precisely the right that this Court affirmed when it struck mandatory candidate filing fees as unconstitutional wealth discrimination. In *Bullock* and *Lubin*, the Court held that candidates "lacking both personal wealth and affluent backers are in every practical sense" excluded from the electoral process by mandatory filing fees, and that "[t]he effect of this exclusionary mechanism on voters is neither incidental nor remote." *Bullock*, 405 U.S. at 143-144. *See also Lubin*, 415 U.S. at 716 (rights of excluded candidates are "intertwined with the rights of voters"); *and see Anderson et al. v. Celebrezze*, 460 U.S. 780, 786-787 (1983) (striking early candidate filing deadline which unconstitutionally burdened rights of voters supporting independent candidate). While Judge Henderson supports her ruling by noting that "none of the Adams plaintiffs has been, or conceivably will be, stripped of his right to vote or of access to the ballot," Henderson op. at 340, the same was true in *Bullock* and *Lubin*. The challenged statutes in those cases did not directly abridge the right to vote, but rather denied non-wealthy voters a meaningful vote. The exclusion of

voters and their preferred candidates was *de facto* rather than *de jure*; those lacking wealth were not literally but "in every *practical* sense" excluded from elections. *Bullock*, 405 U.S. at 143-144.

Similarly, the apportionment cases recognize that "the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." *Reynolds*, 377 U.S. at 555; *see also Baker v. Carr*, 369 U.S. 186 (1962) (vote dilution claim is justiciable); *Gray v. Sanders*, 372 U.S. 368 (1963) (violation of equal protection and due process clauses of fourteenth amendment, and of seventeenth amendment, to weight rural votes more heavily than urban votes); *Wesberry v. Sanders*, 376 U.S. 1 (1964) (vote dilution violates Art. I, § 2); *Davis*, 478 U.S. 109 (dilution of voting strength of political group is justiciable under equal protection clause). The multimember districts invalidated in *White v. Regester*, 412 U.S. 755 (1973), did not explicitly restrict the vote of racial minorities, yet this Court upheld the lower court's conclusion that such districts "*effectively* excluded" minority groups from participation in the primary because such groups "had less opportunity than did other residents in the district to participate in the political process and to elect legislators of their choice." *Id.* at 766-67 (emphasis added). *Cf. Whitcomb v. Chavis*, 403 U.S. 124 (1971) (claim of racial vote dilution from multi-member districts is justiciable but not shown on the record).

The district court's ruling takes a far more constricted view of the right to vote than the wealth discrimination and apportionment cases permit. Indeed, the district court's standard would bar all voting rights claims except where the right to vote were explicitly and directly

abridged by the state. No voter is stripped of the right to vote by a mandatory candidate filing fee, and no voter is stripped of the right to vote by unfair legislative apportionment, yet such practices indeed deny these voters equal protection of the law. This Court has recognized the right of each citizen to "an equally effective voice" in elections, declaring, "Modern and viable state government needs, and the Constitution demands, no less." *Reynolds*, 377 U.S. at 565. The appellants' claim that the BCRA hard money provisions deny them an "equally effective voice" may not be dismissed as nonjusticiable merely because the law does not, on its face, abridge the vote.

Judge Henderson summarily rejects the above-cited wealth discrimination and apportionment case law as "inapposite," with no more than a citation to *Buckley*'s well-known admonishment that the voting rights cases do not support "abridging the rights of some persons to engage in political expression in order to enhance the relative voice of other segments of our society." *Buckley v. Valeo*, 424 U.S. 1, 49 n. 55 (1976). That statement was written in regard to the FECA's expenditure limitations which, on the record in *Buckley*, the Court held to be an unconstitutional restriction of speech. *Id.* at 51. The appellants in this case do not seek to "abridge" the speech of anyone; rather they seek to maintain the very contribution limits which *Buckley* held entail "only a marginal restriction upon the contributor's ability to engage in free communication," 424 U.S. at 20, and do *not* substantially infringe the speech or associational rights of donors. *Id.* at 22; *see also Nixon v. Shrink Missouri Government PAC*, 528 U.S. 377, 386-88 (2000) (distinguishing between spending and contribution limits and upholding Missouri's contribution limits ranging from $250 to $1,000); *FEC v. Mass Citizens*

for Life, Inc., 479 U.S. 238, 259-260 (1986) ("We have consistently held that restrictions on contributions require less compelling justification than restrictions on independent spending"). The appellants here seek to "assure that citizens are accorded an equal right to vote for their representatives regardless of . . . wealth," a principle affirmed in *Buckley*, 424 U.S. 49 n. 55, and *not* to validate "governmentally imposed restrictions on the franchise" as *Buckley* prohibits. *Id.* Far from stifling speech, contribution limits "aim to democratize the influence that money itself may bring to bear upon the electoral process. In doing so, they seek to build public confidence in that process and broaden the base of a candidate's meaningful financial support, encouraging the public participation and open discussion that the First Amendment itself presupposes." *Shrink Missouri*, 528 U.S. at 401 (Breyer, J., joined by Ginsburg, J., concurring), citing *Reynolds*, 377 U.S. at 565.[5]

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[5] Further, in his *Shrink* concurrence Justice Breyer cautioned against reading *Buckley*'s disapproval of spending limits as a prohibition of any effort to promote electoral equality, particularly through contribution limits.

> [*Buckley*] said . . . that it rejected 'the concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others.' But those words cannot be taken literally. The Constitution often permits restrictions on the speech of some in order to prevent a few from drowning out the many. . . . Regardless, as the result in *Buckley* made clear, the statement does not automatically invalidate a statute that seeks a fairer electoral debate through contribution limits, nor should it forbid the Court to take account of the competing constitutional interests just mentioned."

528 U.S. at 402 (Breyer, J., concurring) (internal citations omitted).

Additionally, the district court decision conflicts with case law explicitly recognizing competitive electoral injury as a justiciable claim. *See Int'l. Assn. of Machinists*, 678 F.2d 1092; *Vote Choice*, 4 F.3d 26; *Fulani I*, 882 F.2d 621; *Becker v. FEC*, 230 F.3d 381 (1st Cir. 2000); *Buchanan v. FEC*, 112 F.Supp.2d 58 (D.D.C. 2000); *cf. Fulani v. Brady*, 953 F.2d 1324 (D.C. Cir. 1991) ("*Fulani II*").[6] To deny cognizable injury from a candidate's loss of competitive advantage "would tend to diminish the import of depriving a serious candidate for public office of the opportunity to compete equally for votes in an election." *Fulani I*, 882 F.2d at 626.

The competitor standing doctrine has clear application in a case such as this one, where the appellants suffer an economic disadvantage from the challenged provisions. For example, under this doctrine, a candidate has been granted standing to challenge a statute which permitted her competitors participating in public financing to accept contributions of $2,000 per year, while she would be limited to $1,000 per year as a non-participating candidate. *Vote Choice*, 4 F.3d at 37. Elsewhere, voters had standing to challenge FECA provisions that they alleged allowed corporations greater latitude in solicitation than

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[6] The Court in *Fulani II* noted that "[u]nquestionably, there is such a concept as 'competitor standing,'" 953 F.2d at 1327, but denied standing because plaintiffs sued under the Internal Revenue Code and plaintiffs' injuries were not fairly traceable to the tax status of the defendant. The *Buchanan* decision notes that in *Fulani II*, "the fact that the plaintiffs did not sue under FECA, but rather under the Internal Revenue Code, proved dispositive.... The FECA, unlike the Internal Revenue Code, confers a broad grant of standing." *See Buchanan*, 112 F.Supp.2d at 63.

unions, giving corporate political committees an economic advantage. *Int'l Assn. of Machinists*, 678 F.2d at 51. The court was satisfied with allegations that the plaintiffs "suffer a relative diminution in their political voices – their influence in federal elections – as a direct result of the discriminatory imbalance Congress is alleged to have ordered in the 1976 FECA amendments." *Id.* Here, the appellants similarly claim that by advantaging wealthy donors and their favored candidates, the BCRA will cause the appellants to suffer a relative diminution in their political voice. The appellant candidates' and voters' assessment of the disadvantage they will suffer is entitled to deference. A court should not second-guess "a candidate's reasonable assessment of his own campaign," for this "would require the clairvoyance of campaign consultants or political pundits – guises that members of the apolitical branch should be especially hesitant to assume." *Becker*, 230 F.3d at 387.

Finally, the district court finds a lack of injury from the millionaire provisions because "none of the *Adams* plaintiffs is a candidate in an election affected by the millionaire provision." Henderson op. at 343. This ignores the claims of plaintiff Cynthia Brown, who testified that she was a candidate for the United States Senate from North Carolina in the 2002 Democratic Primary, Brown Decl. ¶3, App. 94a; that one of her opponents was a millionaire who "contributed enormous sums of money to his own campaign;" that another opponent "raised large sums of money from wealthy contributors" *id.* ¶5; that her own contributions averaged approximately $25, *id.* ¶4; and that she would consider running again for the U.S. Senate, but the BCRA millionaire provisions would "seriously discourage" her from participating. *Id.* ¶7. "If I were to run

for the U.S. Senate again from North Carolina, I would likely face again a millionaire opponent. Under the increases in the hard money contribution limits, my other opponents would be free to raise up to $12,000 per individual per election. The people I know can hardly afford to contribute twenty-five dollars, let alone $12,000. There is no way that any candidate like me can compete under these new conditions." *Id.* ¶8, App. 95a.[7]

Neither Ms. Brown nor any of the other candidates challenging various provisions of the BCRA in the consolidated litigation could have demonstrated complete certainty that they would compete in the 2004 elections, given that the lawsuits were filed during the 2002 elections. However, there is a clear likelihood that if Ms. Brown were to run for Senate in North Carolina in 2004 she would be in a race where the millionaire amendment provisions apply. Incumbent Senator John Edwards spent $6.15 million of his own money to win election in 1998, *see* Center for Responsive Politics, "John R. Edwards: Politician Profile," *available at* http://www.opensecrets.org/1998os/index/N00002283.htm, and he will face re-election in 2004.

B. The appellants' injuries are fairly traceable to the BCRA.

The district court concluded that the appellants' injuries are not fairly traceable to BCRA because "any

[7] Carrie Bolton, a North Carolina voter supporting Ms. Brown, also testified regarding her desire to support Ms. Brown in future elections. Bolton Decl., App. 103a-106a.

inequality the *Adams* plaintiffs may suffer would be at the hands of other individuals, not BCRA." Henderson op. at 340-41, citing *Lujan*, 504 U.S. at 560. In so concluding, the court relied nearly entirely on cases in which plaintiffs sought to challenge the entire system of privately funded campaigns as a violation of equal protection, and sought judicial imposition of public campaign financing as a remedy. *See id., citing Cox*, 183 F.3d 1259; *NAACP Los Angeles Branch v. Jones*, 131 F.3d 1317 (9th Cir. 1997); *Albanese v. FEC*, 78 F.3d 66 (2d Cir. 1996). However, in contrast with these "wealth primary" cases, the appellants here challenge an enactment of Congress that directly impairs their ability to participate in elections.

The *Adams* plaintiffs are not asking the Court to craft a judicial remedy for general inequalities in campaign finance, but rather to enjoin a statute that actively creates inequalities so severe as to disenfranchise the plaintiffs. Here, Congress has empowered the wealthiest donors to give double the amount previously permitted (and many times more in the case of the millionaire provisions), and there can be no doubt of the link between the challenged statute and the inequalities of which the appellants complain. The appellants here, as in *Vote Choice*, seek "a permanent injunction against enforcement of the very statutes which cause[ ] [their] injury. This produces the causal connection between the injury alleged and the relief requested." *Vote Choice*, 4 F.3d at 37. The fact that the challenged statute injures the plaintiffs by advantaging private individuals does not destroy the causal link between the statute and the injury. If that were the case, then there would have been no standing in *Vote Choice*, where the candidate plaintiff claimed harm from increased private contributions to her competitors. *See id.*

While *Buckley* did not find that the promotion of equality justified the imposition of spending limits, 424 U.S. at 48-49, neither does that decision give constitutional license to a law which creates gaping inequalities. Since *Buckley*, the threats posed by money in politics have become clear. Before the BCRA increases, a mere 0.11 percent of the voting-age population was providing nearly half of all money raised in individual contributions, Cressman Decl., App. 22a-23a, and the largest donors had learned to multiply their electoral power through bundling. *See* McDonald Decl., App. 45a. Now, with BCRA, this miniscule elite has permission to double its ability to determine electoral outcomes, locking disfavored candidates out of contention and stretching democracy to the breaking point.

Justice Breyer has observed that contribution limits "protect the integrity of the electoral process – the means through which a free society democratically translates political speech into concrete action." *Shrink Missouri*, 528 U.S. at 401 (Breyer, J., joined by Ginsburg, J., concurring). The evisceration of contribution limits accomplishes the inverse, striking at the integrity of the electoral process. Many observers have noted the dangers to democracy posed by the increased influence of wealth in elections. *See, e.g.*, Burt Neuborne, *Toward a Democracy-Centered Reading of the First Amendment*, 93 Nw. U. L. Rev. 1055, 1072-73 (1999) ("[W]ealth disparity introduces massive political inequality skewed to a predictable set of self-interested positions" and permits "wholly unjustifiable differences in political power to emerge . . . The obvious inequalities introduced by massive wealth disparities cause many persons to lose faith in the system."); Owen M. Fiss, *Free Speech and Social Structure*, 71 Iowa L. Rev.

1405, 1412 (1986) (in an election campaign, the resources at the disposal of the rich "enable them to fill all available space for public discourse with their message"); Ronald Dworkin, *Free Speech and the Dimensions of Democracy*, in IF BUCKLEY FELL 63, 78 (E. Joshua Rosenkranz ed., 1999) ("People cannot plausibly regard themselves as partners in an enterprise of self-government when they are effectively shut out from the political debate because they cannot afford a grotesquely high admission price"). The BCRA's hard money increases turn these dangers into accomplished fact.

Equal protection principles require that the Court act to preserve the franchise for all citizens, just as it did in the wealth discrimination cases, *Harper* 383 U.S. 663; *Bullock*, 405 U.S. 134; *Lubin*, 415 U.S. 709, and the one person – one vote cases. *See Baker*, 369 U.S. 186; *Gray*, 372 U.S. 368; *Wesberry*, 376 U.S. 1; *Reynolds*, 377 U.S. 533; *Davis*, 478 U.S. 109. When this Court enforced the one person – one vote standard in *Wesbery*, it recalled Madison's words:

> Who are to be the electors of the Federal Representatives? Not the rich more than the poor; not the learned more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscure and unpropitious fortune. The electors are to be the great body of the people of the United States.

376 U.S. at 18 (citing The Federalist, No. 57 (Cooke ed. 1961)). With the BCRA hard money increases, the rich will in every practical sense become the electors of federal officeholders, for nobody lacking their favor will have a significant chance of success. In *Wesbery*, this court famously observed, "No right is more precious in a free

country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined. Our Constitution leaves no room for classifications of people in a way that unnecessarily abridges this right." 376 U.S. at 17-18. It is this vision of the Constitution which the Court must now act to protect.

CONCLUSION

For the foregoing reasons, the Court should note probable jurisdiction.

Respectfully submitted

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APPENDIX A

IN UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et al.*, *Plaintiffs*, -vs- THE FEDERAL ELECTION COMMISSION *et al.*, *Defendants.*	Civil Action NO. 02-cv-877 KLH CKK RJL *consolidated with* 02-cv-582-KLH-CKK-RJL (lead case) *and* 02-cv-581-KLH-CKK-RJL 02-cv-633-KLH-CKK-RJL 02-cv-751-KLH-CKK-RJL 02-cv-753-KLH-CKK-RJL 02-cv-754-KLH-CKK-RJL 02-cv-781-KLH-CKK-RJL 02-cv-874-KLH-CKK-RJL 02-cv-875-KLH-CKK-RJL 02-cv-881-KLH-CKK-RJL

NOTICE OF APPEAL

(Filed May 4, 2003)

Notice is hereby given that Victoria Jackson Gray Adams, Carrie Bolton, Cynthia Brown, Derek Cressman, Victoria Fitzgerald, Anurada Joshi, Nancy Russell, Kate Seely-Kirk, Rose Taylor, Stephanie L. Wilson, California Public Interest Research Group, Massachusetts Public Interest Research Group, New Jersey Public Interest Research Group, United States Public Interest Research Group, Fannie Lou Harner Project, and Association of Community Organizers For Reform Now, plaintiffs in

the above named case, hereby appeal to the United States Supreme Court from the final judgment entered in this action on the 2nd day of May 2003. This appeal is taken pursuant to 28 U.S.C. § 1253 and the Bipartisan Campaign Finance Reform Act of 2002, Pub. L. No. 107-155, § 403, 116 Stat. 81, 113-114 (2002).

Dated: May 5, 2003

Respectfully submitted,

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APPENDIX B

The Fifth Amendment to the United States Constitution provides as follows:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

APPENDIX C

The relevant sections of the Bipartisan Campaign Reform Act of 2002 provide as follows:

PUBLIC LAW 107-155 – MAR. 27, 2002

SEC. 304. MODIFICATION OF INDIVIDUAL CONTRIBUTION LIMITS IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.

(a) INCREASED LIMITS FOR INDIVIDUALS. – Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended –

(1) in subsection (a)(1), by striking "No person" and inserting "Except as provided in subsection (i), no person"; and

(2) by adding at the end the following:

"(i) INCREASED LIMIT TO ALLOW RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS. –

"(1) INCREASE. –

"(A) IN GENERAL. – Subject to paragraph (2), if the opposition personal funds amount with respect to a candidate for election to the office of Senator exceeds the threshold amount, the limit under subsection (a)(1)(A) (in this subsection referred to as the 'applicable limit') with respect to that candidate shall be the increased limit.

"(B) THRESHOLD AMOUNT.

"(i) STATE-BY-STATE COMPETITIVE AND FAIR CAMPAIGN FORMULA. – In this subsection, the threshold amount with respect to

an election cycle of a candidate described in subparagraph (A) is an amount equal to the sum of –

"(I) $150,000; and

"(II) $0.04 multiplied by the voting age population.

"(ii) VOTING AGE POPULATION. – In this subparagraph, the term 'voting age population' means in the case of a candidate for the office of Senator, the voting age population of the State of the candidate (as certified under section 315(e)).

"(C) INCREASED LIMIT. – Except as provided in clause (ii), for purposes of subparagraph (A), if the opposition personal funds amount is over –

(i) 2 times the threshold amount, but not over 4 times that amount –

"(I) the increased limit shall be 3 times the applicable limit; and

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution;

"(ii) 4 times the threshold amount, but not over 10 times that amount –

"(I) the increased limit shall be 6 times the applicable limit; and

"(II) the limit under subsection (a)(3) shall not apply with respect to

any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(iii) 10 times the threshold amount –

"(I) the increased limit shall be 6 times the applicable limit;

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(III) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party shall not apply.

"(D) OPPOSITION PERSONAL FUNDS AMOUNT. – The opposition personal funds amount is an amount equal to the excess (if any) of

"(i) the greatest aggregate amount of expenditures from personal funds (as defined in section 304(a)(6)(B)) that an opposing candidate in the same election makes; over

"(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

"(2) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT.

"(A) IN GENERAL. – Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1) –

"(i) until the candidate has received notification of the opposition personal funds amount under section 304(a)(6)(B); and

"(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 110 percent of the opposition personal funds amount.

"(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE. – A candidate and a candidate's authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

"(3) DISPOSAL OF EXCESS CONTRIBUTIONS. –

"(A) IN GENERAL. – The aggregate amount of contributions accepted by a candidate or a candidate's authorized committee under the increased limit under

paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

"(B) RETURN TO CONTRIBUTORS. – A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

"(j) LIMITATION ON REPAYMENT OF PERSONAL LOANS. – Any candidate who incurs personal loans made after the effective date of the Bipartisan Campaign Reform Act of 2002 in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed $250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election.".

(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS. – Section 304(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(6)) is amended

(1) by redesignating subparagraph (B) as subparagraph (E); and

(2) by inserting after subparagraph (A) the following:

"(B) NOTIFICATION OF EXPENDITURE FROM PERSONAL FUNDS. –

"(i) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS. – In this subparagraph, the term 'expenditure from personal funds' means

"(I) an expenditure made by a candidate using personal funds; and

"(II) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

"(ii) DECLARATION OF INTENT. – Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Senator, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed the State-by-State competitive and fair campaign formula with

"(I) the Commission; and

"(II) each candidate in the same election.

"(iii) INITIAL NOTIFICATION. – Not later than 24 hours after a candidate described in clause (ii) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of 2 times the threshold amount in connection with any election, the candidate shall file a notification with

"(I) the Commission; and

"(II) each candidate in the same election.

"(iv) ADDITIONAL NOTIFICATION. – After a candidate files an initial notification under clause (iii), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceed $10,000 with –

"(I) the Commission; and

"(II) each candidate in the same election.

Such notification shall be filed not later than 24 hours after the expenditure is made.

"(v) CONTENTS. – A notification under clause (iii) or (iv) shall include –

"(I) the name of the candidate and the office sought by the candidate;

"(II) the date and amount of each expenditure; and

"(III) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

"(C) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS. – In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under paragraph (1) of section 315(1)) and the manner in which the candidate or the candidate's authorized committee used such funds.

"(D) ENFORCEMENT. – For provisions providing for the enforcement of the reporting requirements under this paragraph, see section 309.".

(c) DEFINITIONS. – Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431), as amended by

section 101(b), is further amended by adding at the end the following:

"(25) ELECTION CYCLE. – For purposes of sections 315(1) and 315A and paragraph (26), the term 'election cycle' means the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat. For purposes of the preceding sentence, a primary election and a general election shall be considered to be separate elections.

"(26) PERSONAL FUNDS. – The term 'personal funds' means an amount that is derived from –

"(A) any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had –

"(i) legal and rightful title; or

"(ii) an equitable interest;

"(B) income received during the current election cycle of the candidate, including –

"(i) a salary and other earned income from bona fide employment;

"(ii) dividends and proceeds from the sale of the candidate's stocks or other investments;

"(iii) bequests to the candidate;

"(iv) income from trusts established before the beginning of the election cycle;

"(v) income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;

"(vi) gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and

"(vii) proceeds from lotteries and similar legal games of chance; and

"(C) a portion of assets that are jointly owned by the candidate and the candidate's spouse equal to the candidate's share of the asset under the instrument of conveyance or ownership, but if no specific share is indicated by an instrument of conveyance or ownership, the value of 1/2 of the property.".

SEC. 307. MODIFICATION OF CONTRIBUTION LIMITS.

(a) INCREASE IN INDIVIDUAL LIMITS FOR CERTAIN CONTRIBUTIONS. – Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended

(1) in subparagraph (A), by striking "$1,000" and inserting "$2,000"; and

(2) in subparagraph (B), by striking "$20,000" and inserting "$25,000".

(b) INCREASE IN ANNUAL AGGREGATE LIMIT ON INDIVIDUAL CONTRIBUTIONS. – Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended to read as follows:

"(3) During the period which begins on January 1 of an odd-numbered year and ends on December 31 of the next even-numbered year, no individual may make contributions aggregating more than –

"(A) $37,500, in the case of contributions to candidates and the authorized committees of candidates;

"(B) $57,500, in the case of any other contributions, of which not more than $37,500 may be attributable to contributions to political committees which are not political committees of national political parties.".

(c) INCREASE IN SENATORIAL CAMPAIGN COMMITTEE LIMIT. – Section 315(h) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(h)) is amended by striking "$17,500" and inserting "$35,000".

(d) INDEXING OF CONTRIBUTION LIMITS. – Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended –

(1) in paragraph (1) –

(A) by striking the second and third sentences;

(B) by inserting "(A)" before "At the beginning"; and

(C) by adding at the end the following:

"(B) Except as provided in subparagraph (C), in any calendar year after 2002 –

"(i) a limitation established by subsections (a)(1)(A), (a)(1)(B), (a)(3), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A);

"(ii) each amount so increased shall remain in effect for the calendar year; and

"(iii) if any amount after adjustment under clause (i) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

"(C) In the case of limitations under subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), increases shall only be made in odd-numbered years and such increases shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election."; and

(2) in paragraph (2)(B), by striking "means the calendar year 1974" and inserting "means –

"(i) for purposes of subsections (b) and (d), calendar year 1974; and

"(ii) for purposes of subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), calendar year 2001".

(e) EFFECTIVE DATE. – The amendments made by this section shall apply with respect to contributions made on or after January 1, 2003.

SEC. 319. MODIFICATION OF INDIVIDUAL CONTRIBUTION LIMITS FOR HOUSE CANDIDATES IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.

(a) INCREASED LIMITS. – Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is

amended by inserting after section 315 the following new section:

"MODIFICATION OF CERTAIN LIMITS FOR HOUSE CANDIDATES IN RESPONSE TO PERSONAL FUND EXPENDITURES OF OPPONENTS

"SEC. 315A. (a) AVAILABILITY OF INCREASED LIMIT. –

"(1) IN GENERAL. – Subject to paragraph (3), if the opposition personal funds amount with respect to a candidate for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress exceeds $350,000 –

"(A) the limit under subsection (a)(1)(A) with respect to the candidate shall be tripled;

"(B) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to the candidate if the contribution is made under the increased limit allowed under subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(C) the limits under sub-section (d) with respect to any expenditure by a State or national committee of a political party on behalf of the candidate shall not apply.

"(2) DETERMINATION OF OPPOSITION PERSONAL FUNDS AMOUNT. –

"(A) IN GENERAL. – The opposition personal funds amount is an amount equal to the excess (if any) of –

"(i) the greatest aggregate amount of expenditures from personal funds (as defined

in subsection (b)(1)) that an opposing candidate in the same election makes; over

"(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

"(B) SPECIAL RULE FOR CANDIDATE'S CAMPAIGN FUNDS. –

"(i) IN GENERAL. – For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (A), such amount shall include the gross receipts advantage of the candidate's authorized committee.

"(ii) GROSS RECEIPTS ADVANTAGE. – For purposes of clause (i), the term 'gross receipts advantage' means the excess, if any, of –

"(I) the aggregate amount of 50 percent of gross receipts of a candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

"(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of

the year preceding the year in which a general election is held.

"(3) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT. –

"(A) IN GENERAL. – Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1) –

"(i) until the candidate has received notification of the opposition personal funds amount under subsection (b)(1); and

"(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 100 percent of the opposition personal funds amount.

"(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE. – A candidate and a candidate's authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

"(4) DISPOSAL OF EXCESS CONTRIBUTIONS. –

"(A) IN GENERAL. – The aggregate amount of contributions accepted by a candidate or a candidate's authorized committee under the increased limit under paragraph (1) and not otherwise

expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

"(B) RETURN TO CONTRIBUTORS. – A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

"(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS. –

"(1) IN GENERAL. –

"(A) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS. – In this paragraph, the term 'expenditure from personal funds' means –

"(i) an expenditure made by a candidate using personal funds; and

"(ii) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

"(B) DECLARATION OF INTENT. – Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed $350,000.

"(C) INITIAL NOTIFICATION. – Not later than 24 hours after a candidate described in subparagraph (B) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of $350,000 in connection with any election, the candidate shall file a notification.

"(D) ADDITIONAL NOTIFICATION. – After a candidate files an initial notification under subparagraph (C), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceeds $10,000. Such notification shall be filed not later than 24 hours after the expenditure is made.

"(E) CONTENTS. – A notification under subparagraph (C) or (D) shall include –

"(i) the name of the candidate and the office sought by the candidate;

"(ii) the date and amount of each expenditure; and

"(iii) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

"(F) PLACE OF FILING. – Each declaration or notification required to be filed by a candidate under subparagraph (C), (D), or (E) shall be filed with –

"(i) the Commission; and

"(ii) each candidate in the same election and the national party of each such candidate.

"(2) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS. – In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under subsection (a)) and the manner in which the candidate or the candidate's authorized committee used such funds.

"(3) ENFORCEMENT. – For provisions providing for the enforcement of the reporting requirements under this subsection, see section 309.".

(b) CONFORMING AMENDMENT. – Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 304(a), is amended by striking "subsection (i)," and inserting "subsection (i) and section 315A.".

APPENDIX D

Exhibit 1

IN UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et al.*, *Plaintiffs,* -vs- THE FEDERAL ELECTION COMMISSION *et al.*, *Defendants.*	Civil Action No. 02-cv-877-KLH-CKK-RJL *consolidated with* 02-cv-582-KLH-CKK-RJL (lead case) *and* 02-cv-581-KLH-CKK-RJL 02-cv-633-KLH-CKK-RJL 02-cv-751-KLH-CKK-RJL 02-cv-753-KLH-CKK-RJL 02-cv-754-KLH-CKK-RJL 02-cv-781-KLH-CKK-RJL 02-cv-874-KLH-CKK-RJL 02-cv-875-KLH-CKK-RJL 02-cv-881-KLH-CKK-RJL

DECLARATION AND EXPERT REPORT OF DEREK CRESSMAN

1. My name is Derek Cressman. I am the Democracy Program Director of the State Public Interest Research Groups. The PIRGs are a network of non-profit, non-partisan research and advocacy organizations that have analyzed campaign finance issues and other public interest issues for the past 30 years. I have professionally studied federal hard money contributions since 1995 with U.S. PIRG, the national policy office of the State PIRGs. In that time, I have authored or co-authored nine studies and white papers regarding the financing of federal campaigns. I

have provided testimony before the United State Senate Rules Committee on the topic of increasing federal contribution limits. I have not received any compensation for providing this declaration and expert report.

2. It is my expert opinion that hard money contributions and expenditures significantly influence the outcome of elections. In 440 of 469 (or 94%) of 2000 general election races for the House of Representatives and U.S. Senate, the candidate who spent the most money won their race [see exhibit A, *Look Who's Not Coming to Washington*, U.S. PIRG, January 2001, Appendix A]. Winning candidates outraised opponents by a margin of 2.6 to 1 [see exhibit B, *The Best Elections Money Can Buy*, U.S. PIRG, November 2000. page 4]. In 1998, the candidate who spent the most won 94% of House races and 95% of Senate races. Further, in every presidential primary since 1976, the candidate who has raised the most money has won his party's nomination [see exhibit C, *Running for the Money,* U.S. PIRG, September 1999, page 5].

3. While money is not the sole factor in determining elections, it is an overwhelming factor. This is the reason that candidates and campaign directors, who are experts in the business of winning elections, spend so much time and energy raising campaign funds. If money did not largely determine election outcomes, then candidates would not bother raising it.

4. Federal campaign funds come from a small minority of citizens. In the 2000 election cycle, fewer than 232,000 individuals gave contributions of $1,000 or more to federal candidates. This represents just 0.11% of the voting age population [see exhibit D, *Reinforcing the Rich*, Public Citizen, February 2, 2001, page 2]. Clearly the current

federal limits only affect a miniscule proportion of U.S. citizens, the vast majority of whom are limited by their disposable incomes in what they can give at amounts far lower than $1000.

5. The small number of donors who give the maximum amount comprise a significant source of candidate funds. Contributors who gave $1000 or more to a federal candidate gave 46% of all individual contributions to federal candidates from January 1, 1999 to November 28, 2000 [see exhibit E, *The Consequences of Raising Federal Contribution Limits*, U.S. PIRG, March 2001, page 5]. Of those candidates who were successful, 60% of their individual funds came from donors who gave $1000 or more [see exhibit A, page 6].

6. Common sense would indicate that citizens who can afford to give $1000 will tend to be wealthier than those who cannot. This has been documented by surveys showing that of large donors to federal elections, 95% had family incomes greater than $50,000 while almost two-thirds of American households had incomes below that level. Large donors are 95% white, 80% male, and 50% were over 60 years of age. This compares to a U.S. population that is 17% non-white, 51% female, and only 12.8% over the age of 60. Large federal donors are much more likely to be employed in business or law professions than the public at large. They are more conservative than the public at large on economic matters and environmental matters. However, one-third of large donors identified themselves as liberal compared to one-fifth of the general public, so it is primarily the middle of the political spectrum that is underrepresented among large donors [see exhibit F, *Pushing the Limit*, U.S. PIRG, July 1999, page 7 and exhibit G, *Individual Campaign Contributors*:

WEALTHY, CONSERVATIVE – AND REFORM MINDED, Green, Hernson, Powell, and Wilcox, June 1998].

7. In the first 15 months of the 1999-2000 election cycle, 2/3 of Fortune 500 CEOs gave at least one maximum $1000 contribution to a candidate, compared to less than one percent of the general population [see exhibit H, *Legalizing the Loophole,* U.S. PIRG, June 2000 page 3]. Clearly, CEOs have greater influence over election results than ordinary citizens.

8. Because campaign fundraising is such a large factor in electoral success, many potential candidates choose not to run for office or drop out of contention because they do not have the backing of large donors. For example, Congressman John Kasich and Elizabeth Dole withdrew from the Republican Primary for President in the last election before a single vote was cast in large part due to fundraising. Had these candidates had similar large donor support to frontrunner George W. Bush, or had Bush raised amounts similar to Kasich and Dole, those candidates would likely have remained in the race. At the time John Kasich dropped out of the Republican presidential primary, George W. Bush had raised 74.4% of his funds from maximum $1000 donors [see exhibit C, page 2].

9. Therefore, through giving hard money contributions of $1000, a small and unrepresentative group of citizens has vastly more influence than most Americans in determining who runs for federal office, and who wins elections. All citizens do not have equal opportunity to participate in the electoral process in America, and the accompanying results cannot be interpreted to represent the will of the majority of citizens.

10. Low and moderate-income citizens are aware that their voices do not carry equal weight in federal politics. In 1999, only 29% of Americans trusted the government in Washington to do the right thing, according to a poll by the Council for Excellence in Government. The same survey found that 63% of respondents feel that government serves the special interests, while only 25% said it serves the public interest. Just 39% said that they believed our current government meets Abraham Lincoln's goal of government of, by, and for the people, while 54% said we do not have a government of, by, and for the people [see exhibit I, *Testimony of Campaign Finance Reform*, Derek Cressman, March 29, 2001]. The feeling of disenfranchisement is a significant reason for declining rates of voter participation and a barrier to citizens getting involved in federal elections through volunteering or making small contributions. This then exacerbates the undue influence of large donors on the process.

11. Members of Congress are also aware of the disproportionate role that money plays in influencing election outcomes. Even if a member of Congress grants no access to a donor, and has no personal communication let alone *quid pro quo* understanding with a donor, that member of Congress knows that the donor can influence his or her reelection and is therefore more accountable to that donor than to other constituents. For politicians who favor their political career more than their personal wealth, the unequal influence of large donors on election outcomes can be more corrupting in the form of distortion to the political process than traditional bribery. A recent study by political scientists Lawrence Jacobs and Robert Shapiro found that in 1980, federal lawmakers followed the wishes of the majority of Americans about two-thirds of the time. In

2000, that was down to 40% of the time. The professors concluded that lawmakers answer "to the extreme ideological elements of their parties, to their contributors, and to special interests" [see exhibit J, *Politicians Don't Pander,* Washington Post, March 19, 2000.]

12. If legislators do not follow the wishes of large donors, they may find themselves defeated by candidates who do. For example, with one exception, the candidates in the 2000 election who received the most money from Enron and Arthur Anderson defeated their opponents. One specific example involves the 1994 election for the 18th Congressional District in Texas. Enron CEO Kenneth Lay recruited Sheila Jackson Lee to challenge then-incumbent Craig Washington because of Washington's opposition to NAFTA. Lay and other Enron employees helped raise nearly $600,000 for Jackson Lee, three times as much as Washington had raised in his previous re-election. The result was an overwhelming win for Jackson Lee. This demonstrates how large contributions can influence policy decisions without any quid pro quo or even access granted by the candidate. Representative Jackson Lee's position on NAFTA was likely not influenced by her contributors. However, Lay and his fellow large donors were able to change the vote of the representative of the 18th District of Texas by dint of large campaign contributions. This avenue of political influence is unavailable to most voters in the 18th District of Texas [see exhibit K, *Phantom Fixes*, U.S. PIRG, January 2002, page 10].

13. The influence of large donors on election outcomes has increased significantly since the Supreme Court upheld the current $1000 limit in 1976. The techniques of television advertising, polling, focus groups, direct mail marketing, and other expensive modern campaign practices

were in their infancy in the 1960s and early 1970s. As professional campaign managers have become more skilled at employing these marketing techniques to win political campaigns, the competitive advantage of candidates who have significant large donor backing over those who do not has increased and the influence of large donors has grown correspondingly. A Wall Street Journal Poll in 1997 found that 68% of respondents think that the American political system was more influenced by special interest money than it was twenty years earlier [see exhibit I, page 1].

14. Increasing contribution limits will further reduce the role of small donors in influencing federal elections. I estimate that the proportion of individual funds raised by federal candidates from donors who give less than $200 to candidates will shrink from 30% to 21-25%. Meanwhile, the percentage of individual funds federal candidates raise from donors who give the maximum amount allowed will increase from 46% currently to 55-63% [see exhibit E, page 5].

15. Increasing federal contribution limits will reduce the free speech opportunities of low and moderate-income donors, and of candidates who are backed by these donors. There is a limited amount of advertising time available for purchase during a campaign season. As candidates compete for this limited time, the cost of advertising increases. The price of advertising triples in some markets as a result of increased campaign season demand [see exhibit L, *The Case for Free Air Time*, Alliance for Better Campaigns, March 2002, page 9]. Candidates need to purchase air-time to compete, but those candidates backed by lower income voters are effectively priced out of speech opportunities by candidates who have large donor backing. If the

large donor candidates raise even more money under higher contribution limits, it will further drive up the cost of advertisements and literally reduce the number of advertisements that a lesser-funded candidate could purchase, potentially driving their campaigns below the level of notice.

16. Even in races that do not depend upon TV or radio advertising, which is limited by its very nature, voters have a limited capacity to absorb political information. This is limited not only by the time in the day, but by competing demands for a voters attention in their every-day lives. Candidates backed by large donors can effectively capture nearly all of most voters' attention spans through saturation advertising techniques, and literally drown out the voices of lesser-funded candidates.

17. The rationale used by Congress to increase federal contribution limits is not compelling. Although inflation has occurred since the limits were set, federal candidate fundraising has risen even faster. House and Senate candidate fundraising increased by 425% from 1977-78 to 1999-2000, with inflation accounting for less than half of this increase [see exhibit E, page 4]. Candidates are raising and spending more money than ever in the history of our republic under the current $1000 limits.

18. Increasing contribution limits will not reduce the time candidates spend raising funds. Many states have no contribution limits at all, yet there is no evidence from those states that candidates spend any less time raising funds. Candidates will spend time raising funds to the extent that they believe their opponent is doing so and could therefore defeat them. In fact, higher limits may encourage candidates to spend more of their personal time

raising funds. The higher the donation level, the greater the incentive for a candidate to personally speak with a donor as opposed to letting a direct mail piece, internet site, or campaign staff make the solicitation. Further, the larger the donation, the more the donor expects a personal call from the candidate, or a seat at the same dinner table at a fundraiser, or a photograph. Only limits on candidate spending would effectively reduce the time candidates spend raising funds.

19. Increasing contribution limits will not help challengers. Under the current limits, House incumbents outraised House challengers by margins ranging from 2.3 to 1 up to 4 to 1 in elections from 1990-1998. Since there is no reason to believe that higher contribution limits will allow either challengers or incumbents to find additional donors, only receive more from existing donors, it is certain that higher contribution levels will only increase the fundraising disparity between challengers and incumbents [see exhibit F, page 11].

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: Sept. 20, 2002

/s/ Derek Cressman
Derek Cressman

Exhibit 2

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et al.*,	Civil Action No.
Plaintiffs,	02-cv-877-KLH-CKK-RJL
-vs-	*consolidated with*
THE FEDERAL ELECTION COMMISSION *et al.*,	02-cv-582-KLH-CKK-RJL (lead case)
Defendants.	*and*
	02-cv-581-KLH-CKK-RJL
	02-cv-633-KLH-CKK-RJL
	02-cv-751-KLH-CKK-RJL
	02-cv-753-KLH-CKK-RJL
	02-cv-754-KLH-CKK-RJL
	02-cv-781-KLH-CKK-RJL
	02-cv-874-KLH-CKK-RJL
	02-cv-875-KLH-CKK-RJL
	02-cv-881-KLH-CKK-RJL

DECLARATION AND EXPERT REPORT OF PROF. JOHN C. GREEN

1. My name is John C. Green. I am the director of the Ray C. Bliss Institute of Applied Politics at the University of Akron, where I teach courses on campaign finance and fundraising. I have published widely on American campaign finance, especially on the behavior of individual campaign contributors. I am the editor and a contributor to *Financing the 1996 Election*, and I am a contributor to *Financing the 2000 Election*. My curriculum vitae further establishing my expertise on campaign finance matters is attached to this declaration as Exhibit A. I have not

received any compensation for providing this declaration and expert report.

2. I am the co-author with Clyde Wilcox, Paul S. Herrnson and Peter L. Francia of "Raising the Limits," published in the May/June 2002 issue of the Public Perspective. A copy of the "Raising the Limits" article is attached to this declaration as Exhibit B.

3. In "Raising the Limits," we analyzed the impact of the increased contribution limits in the Bipartisan Campaign Reform Act. Our findings were based on a national random sample survey of hard money contributors to congressional campaigns, conducted at the University of Akron in 1997-98. In an earlier report based on this survey research, we found that 81 percent of such donors had annual family incomes higher than $100,000, ninety-five percent were white, and eighty percent were men.

4. In "Raising the Limits," we concluded that the cumulative impact of doubling the individual contribution limits would result in increased giving by the elite pool of individual donors to federal campaigns.

5. We further concluded that this increased giving is likely to exacerbate the upper status character of the donor pool, providing greater voice to wealthy businessmen and individuals already heavily engaged in giving.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: September 18, 2002

/s/ John C. Green
John C. Green

Exhibit 2B

Campaign finance reform may hold some surprises

Raising the Limits

By Clyde Wilcox, John C. Green, Paul S. Herrnson, Peter L. Francia, Lynda W. Powell, and Benjamin A. Webster

The United States has embarked upon a major reform of the federal campaign finance laws, something that happens only about once a generation. Congress has passed, and the president has signed, the most extensive regulation of campaign money since the Watergate-era Federal Election campaign Act (FECA).

Unless declared unconstitutional by the Supreme Court, the new law will restrict "soft money" contributions to political parties and "issue advocacy" spending by parties and interest groups (neither regulated by FECA). The new law will also increase "hard money" contributions (those regulated by FECA).

Clyde Wilcox is professor of government and Benjamin A. Webster is a doctoral student, Georgetown University. John C. Green is professor political science, University of Akron. Paul S. Herrnson is professor of government and politics, and Peter L. Francia is a research fellow at the Center for American Politics and Citizenship, University of Maryland. Lynda W. Powell is professor of political science, University of Rochester.

For example, it will double the limit on the amount individuals can give to congressional candidates in an election from $1,000 to $2,000, so that in a typical race, an individual will be able to give a candidate a total of $4,000 ($2,000 in the primary and $2,000 in the general election). The law also expands to $95,000 per year the total aggregate amount individuals can give to candidates, parties, and PACs.

Some reformers, many of them Republicans, argue that doubling the individual limits will largely restore the value of contributions eroded by inflation, thus expanding participation and helping wean candidates away from soft money and issue advocacy. Other reformers, many of them Democrats, say the new limits will mostly increase the participation of Republican and conservative donors, and thus mostly help GOP candidates. Still others think the new limits will allow candidates to spend less time raising money, and more time legislating, because their fundraising efforts will yield more money.

Further analysis is needed, however, because the effects of reform are often unanticipated by reformers. Labor unions pushed for language permitting the formation of political action committees (PACs) in 1974, but did not foresee the tidal wave of corporate PAC formation in the 1980s. Likewise, the activists who supported the creation of party soft money in 1979 did not fully anticipate the sheer magnitude of those funds twenty years later. Thus, it is worth asking: with increased individual limits, who will give more money, and which candidates will benefit?

We can offer some tentative answers to these questions with a combination of survey and campaign finance data.

Supported by a grant from the Joyce Foundation, we conducted a mail survey of a random sample of individuals who gave $200 or more to congressional candidates in 1996 (hereafter referred to as "major donors"), drawn from the records of the Federal Elections Commission.

Because these records list specific *contributions* and not *contributors,* we weighted the major donor sample to correct for oversampling those who made many contributions. To make sure we understood the donors who gave the most, we also surveyed a special list of individuals who had given to at least eight candidates and/or gave a total of $8,000 (hereafter referred to as "most active donors").

The surveys were conducted at the University of Akron, and the survey responses were matched to the actual donation records, thus linking donor attitudes directly to contributing behavior. [See the July/August 2000 issue of *Public Perspective* for an earlier article on this study.]

As part of a battery of campaign finance reform questions, we asked both samples of donors, "How might your own contributions to congressional candidates be affected if the following changes were enacted? If larger individual gifts were allowed?" The response categories were "would give more," "would give the same," and "would give less."

Just 15% of the major donors reported that they would give more if the limits were raised – we refer to these respondents as "Expanded Givers" – and 5% said that they would give less if contribution limits were raised ("Reduced Givers". Among the most active donors, 30% were Expanded Givers and only 3% Reduced Givers. However, the great bulk of both samples said they would be unaffected by the change: 80% of the major donors and 67% of

the most active said their contributions would remain the same. We call them "Stand-Pat Givers."

Speculation on the impact of increased contribution limits has naturally focused on those donors who "maxed out" at the current limit of $1,000, since only they were restricted by the old law. Yet our study yields a surprising result: nearly one-half of major donors who would give more did not make a maximum contribution in 1996, and this was true of nearly one-quarter of the most active donors as well.

Why would someone who does not make a maximum contribution give more if the limit were doubled? Many donations are made at events, such as dinners and cocktail parties, which typically require a minimum contribution, set below the legal limit. An increase in the limit is likely to produce higher minimum contributions for these events: a senator's $500-a-plate dinner may become $750 or $1,000, and all attendees will give more. Indeed, many Stand-Pat Givers might have to contribute more to participate in the same events.

Why would a donor give less if the legal limit for contributions were raised? The Reduced Givers are deeply disillusioned with the campaign finance system, with one-half saying that the current campaign finance system is "broken and needs to be replaced." As a consequence, they are strong supporters of limits on campaign spending and television advertising, and a ban on soft money. Many already contribute only occasionally and in small amounts. Thus, they may well reduce their giving – or stop it completely – if the role of "big money" grows.

Expanded Givers have a different perspective. For starters, they have a more positive opinion of the campaign

finance system, with a plurality claiming "it has some problems but is basically sound." Many are habitual donors who regard campaign contributing as a legitimate form of political activity. They also support campaign finance reform, and one of their favorite reform proposals is raising individual limits.

Figures 1 and 2 illustrate the demographic and political characteristics of Expanded Givers compared to the entire donor samples. These results must be viewed with caution because the Expanded Givers make up only a small portion of the donor pool, but the patterns are nevertheless quite interesting.

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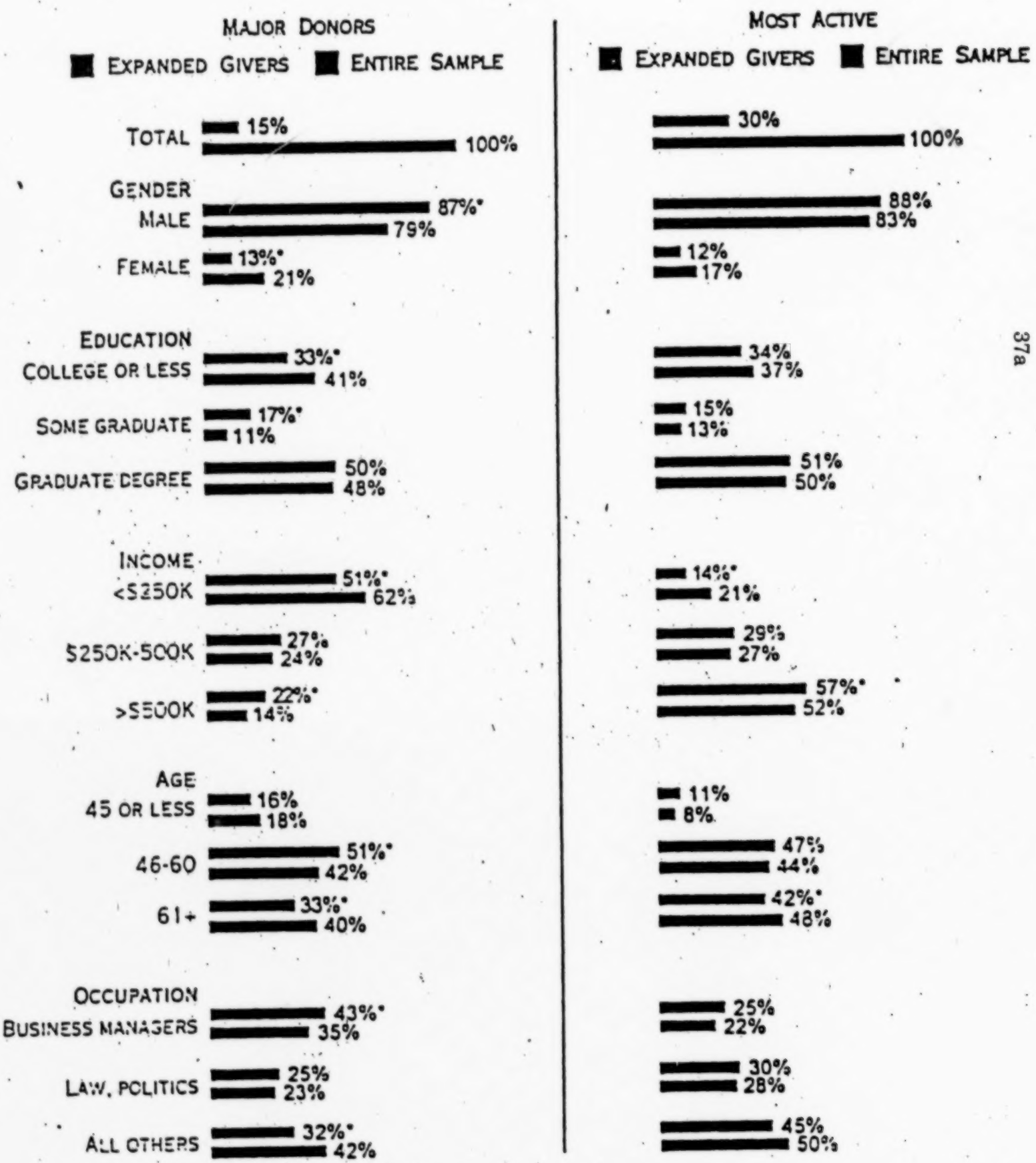
Figure 1

Characteristics of Expanded Givers



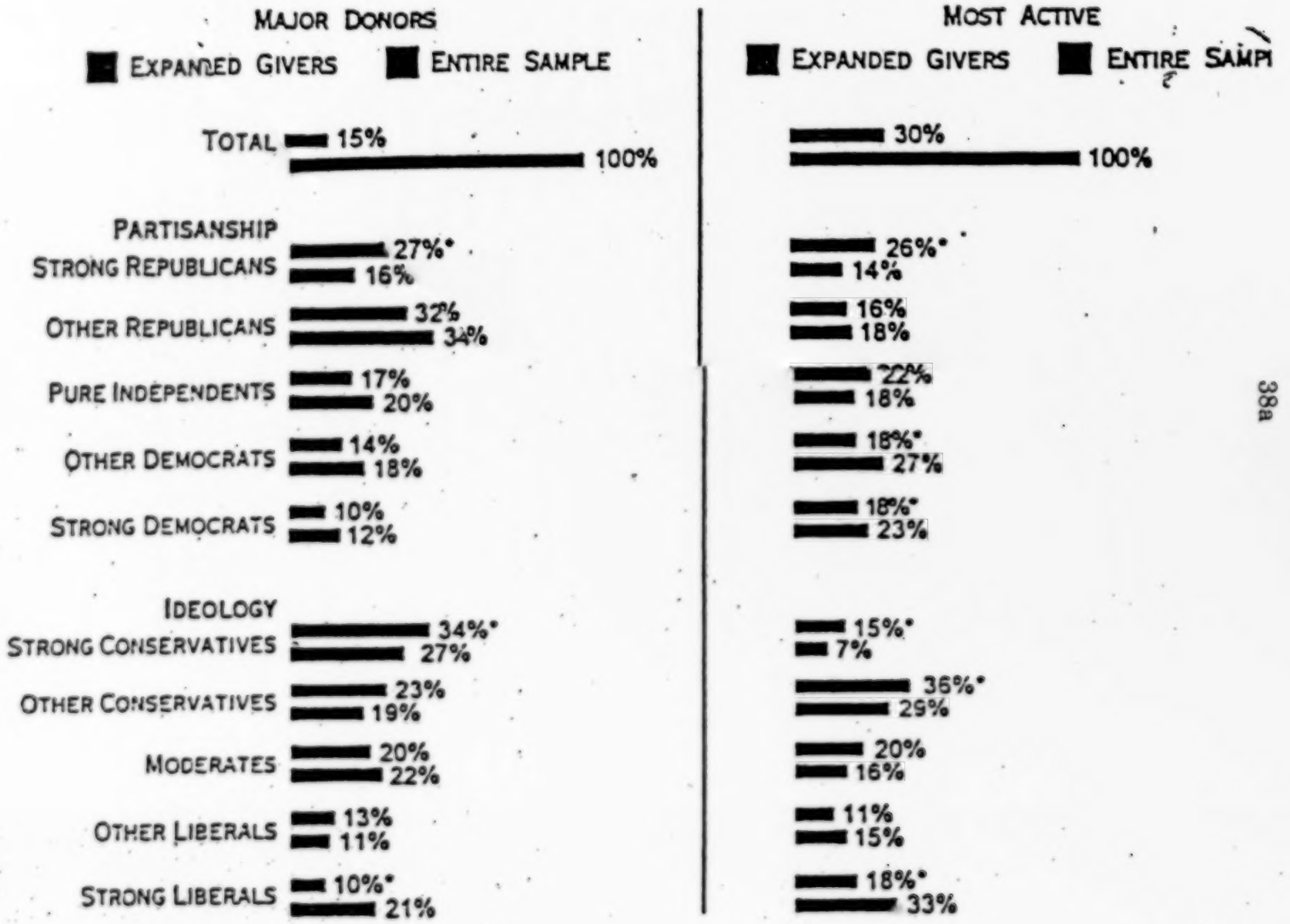
* *Difference between Expanded Givers and entire sample statistically significant at .05 level.*

Note. The survey of major donors included 1,035 individuals who gave $200 or more to congressional candidates in the 1995-96 election cycle, based on information provided by the Federal Election Commission (weighted No1,047). The survey of most active donors included 291 individuals who gave money to at least eight candidates, and/or gave a total of $8,000 in the 1995-96 election cycle, based on information provided by the Center for Responsive Politics (weighted No281). "Expanded Givers" are those who said they would give more if limits were raised.

Source: Surveys by the University of Akron, Fall 1997.

Figure 2

Political Attitudes of Expanded Givers



* *Difference between Expanded Givers and entire sample statistically significant at .05 level.*

Note. The survey of major donors included 1,035 individuals who gave $200 or more to congressional candidates in the 1995-96 election cycle, based on information provided by the Federal Election Commission (weighted No1,047). The survey of most active donors included 291 individuals who gave money to at least eight candidates, and/or gave a total of $8,000 in the 1995-96 election cycle, based on information provided by the Center for Responsive Politics (weighted No281). "Expanded Givers" are those who said they would give more if limits were raised.

Source: Surveys by the University of Akron, Fall 1997.

As can be seen in Figure 1, major congressional donors are disproportionately wealthy, well-educated, middle-aged, and male. Among the major donors, the Expanded Givers fit this profile well. Twenty-two percent report incomes of over $500,000, compared with 14% of the entire sample. In terms of occupation, Expanded Givers are more likely (43% vs. 35%) to be business managers. (Business managers are defined as corporate CEOs, vice presidents, and other high-level business bureaucrats.)

Education and age show more a more complex pattern. Expanded Givers tend to have some graduate training, rather than just a college degree or a graduate degree. Likewise, they tend to be middle-aged, with most between 46 and 60 years of age. There is also a gender gap: Expanded Givers are even more masculine than the sample as a whole.

The Reduced Givers tend to have the opposite characteristics, being less affluent, less educated, and more female, but comprising more older and younger donors. Most of these demographic characteristics are less important for the most active donors. Here the Expanded Givers are wealthier and more likely to be less than 60 years old. But there are few differences in occupation or education, and the gender gap is smaller.

Thus, Expanded Givers tend to be wealthy, middle-aged businessmen, with some variation among the most active donors. And, thus, increased giving is likely to intensify the existing upper-status bias of the donor pool and reduce the representation of women. Raising the limits may well increase individual participation in campaign finance, but in a highly selective fashion.

This conclusion is reinforced by the motives the donors report as "very important" for their giving. Compared to the samples as a whole, Expanded Givers were most likely to report business motives, such as "so my business will be treated fairly," "candidate is friendly to my industry or line of work," or "[I was] asked by someone I cannot say no to." Reduced Givers were less likely to cite this kind of motive as important.

Given the demography and motivation of Expanded Givers, their political profile in Figure 2 should come as no surprise. Among the major donors, Expanded Givers were more likely to be strong Republicans and strong conservatives compared to the sample as a whole.

These patterns extended to specific issues, especially economic questions. Expanded Givers were more likely to support tax cuts "even if it means reducing public services." Similarly conservative-leaning results obtained for Expanded Givers on national health insurance, anti-poverty programs, and environmental protection.

Much the same thing occurred on social issues. For example, Expanded Givers were more likely than other donors to agree that "abortion should be outlawed except to save the mother's life," and were also more conservative on gay rights and affirmative action.

In addition, there is an organizational component to these figures. Fully 30% of the self-identified members of business or conservative interest groups qualified as Expanded Givers. In contrast, just 7% of members of both environmental and liberal groups said they would give more if the limits were raised.

These partisan and ideological tendencies hold for the most active donors – an important finding, because the most active donors are more Democratic and liberal than the major donors. Thus, increased giving may erode a Democratic counterbalance to the Republican tilt of the major donors. Overall, the Reduced Givers are more likely to be liberals, independents of various sorts, and Democrats.

What kind of congressional candidates did Expanded Givers support in 1996? Not surprisingly, they directed more than 70% of their money to Republicans. This figure contrasts sharply with the Reduced Givers, who gave just 38% of their 1996 funds to Republicans, and the Stand-Pat Givers, who gave 56%. Taken together, all of this evidence suggests some factual basis for the opposition to increased individual limits by Democratic reformers.

It is very difficult to estimate the amount and distribution of new funds resulting from the doubling of the individual limits. Much depends on the circumstances of the election and how a wide range of political actors responds to the entire reform package. We can, however, use our major donor sample to estimate the extra funds that might have been raised in 1996, had the increased limits been in place.

For this purpose, we assume that all the Expanded Givers doubled their 1996 contributions, the Reduced Givers cut their contributions to zero, and the Stand-Pat Givers remained unchanged. Table 1 reports the results of this estimate overall and for various kinds of candidates.

Table 1
What If Limits Had Applied in 1996?

	1996 TOTAL IN MILLIONS[1]	ESTIMATED % CHANGE[2]	ESTIMATED NEW FUNDS IN MILLIONS[3]	ESTIMATED TOTAL IN MILLIONS[4]
TOTAL	$203.5	16.7%	$34.0	$237.5
REPUBLICAN INCUMBENTS	$62.8	25.6%	$16.0	$78.8
NON-INCUMBENTS	$50.1	19.6%	$9.8	$59.9
DEMOCRATIC INCUMBENTS	$38.2	13.3%	$5.0	$43.2
NON-INCUMBENTS	$52.4	6.2%	$3.2	$55.6

Note: [1]total funds raised by congressional candidates from individual contributions of $200 or more in 1996. [2]Estimated increase in individual donations of $200 or more assuming: a) all Expanded Givers doubled their 1996 contributions, and b) all Reduced Givers reduced their 1996 contributions to zero.[3] Column one multiplied by column two.[4] Column one added to column three.

Source. Estimated by the authors from the University of Akron Fall 1997 survey and Federal Election Commission data.

The first row in Table 1 reports the total funds raised in 1996 from individuals' donations of $200 or more to congressional candidates ($203.5 million). We estimate that these funds would have been 16.7% higher if the increased limits had been in place and the above assumptions were met, producing an additional $34 million.

There is a sharp partisan bias in the distribution of the estimated funds. For Republican incumbents, funds increased by 25.6% and accounted for almost one-half of the increased funds ($16 out of $34 million). Republican non-incumbents (challengers and open-seat candidates) showed a smaller increase of 19.6% and obtained a little more than one-quarter of the estimated new money.

By comparison, Democrats fared less well: incumbents increased by 13.3% and non-incumbents by 6.2%. The total Democratic increase was $8.2 million, about one-third of the total Republican gain.

These estimates must be viewed with caution, of course, since different assumptions will produce different results, and future campaigns may not resemble that of 1996. The total figures could be much higher if the Stand-Pat Givers are induced to contribute more, or the Reduced Givers continue to participate rather than abstaining.

It is possible that Democratic candidates will more successfully exploit the new limits than Republicans, or that the larger maximum donations will help non-incumbents by providing crucial "seed money" for their campaigns. However, it is also possible that these patterns will also apply to the increased contributions to parties and PACs, to the further advantage of the GOP and conservative candidates.

Finally, the level of estimated new money is high enough to suggest that some candidates may be able to spend less time on fundraising and more time on other duties – especially if they are Republicans and incumbents.

What, then, is the likely impact of doubling individual contribution limits? Although only one in six major donors

claim they would give more, and one in twenty would give less, the cumulative impact could be significant. Increased giving is likely to exacerbate the upper status character of the donor pool, providing greater voice to wealthy businessmen and individuals already heavily engaged in giving.

More of the new funds are likely to go to Republican congressional candidates, particularly incumbents, and may allow these candidates to spend less time on fundraising and more time legislating. Thus, the new reforms may produce some political consequences unforeseen – but not unforeseeable – by the reformers.

Exhibit 3

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et. al.*, *Plaintiffs,* -vs- THE FEDERAL ELECTION COMMISSION *et al.*, *Defendants.*	Civil Action No. 02-cv-877-KLH-CKK-RJL *consolidated with* 02-cv-582-KLH-CKK-RJL (lead case) *and* 02-cv-581-KLH-CKK-RJL 02-cv-633-KLH-CKK-RJL 02-cv-751-KLH-CKK-RJL 02-cv-753-KLH-CKK-RJL 02-cv-754-KLH-CKK-RJL 02-cv-781-KLH-CKK-RJL 02-cv-874-KLH-CKK-RJL 02-cv-875-KLH-CKK-RJL 02-cv-881-KLH-CKK-RJL

DECLARATION AND EXPERT REPORT OF CRAIG MCDONALD

I, Craig McDonald, hereby declare as follows:

1. I am the Director of Texans for Public Justice, a non-profit research organization based in Austin, Texas. I have served as director of Texas for Public Justice since its establishment in 1997. Prior to that I was employed by Public Citizen, Inc. and the Center for New Democracy and as an employee of those organizations, I have accumulated over 20 years of experience in studying and analyzing campaign financing practices and policy with a focus on both federal and state campaigns. My curriculum vitae

is attached to this declaration as Exhibit A. I have not received any compensation for providing this declaration and expert report.

2. Texans for Public Justice monitors, documents and analyzes political campaign donation activity of political candidates and political committees. In July 1999, Texans for Public Justice began monitoring and gathering information on the Governor George W. Bush Presidential Exploratory Committee, Inc. and its successor organization, the George W. Bush For President Committee. A particular focus of our research was the establishment and activity of the Pioneer fundraising network that was established by the Bush Exploratory Committee and functioned as an ongoing activity of the George W. Bush for President Committee. Since July of 1999, Texans for Public Justice has produced several reports documenting the operation of the Pioneer network and detailing the identities, occupations and economic interests of the Bush Pioneers.

3. The existence of the Bush Pioneer program first became public in May 1999, two months after the creation of Bush's presidential exploratory committee on March 7, 1999. The program was designed to circumvent the $1,000 limit on individual contributions to the Bush Presidential Exploratory Committee and the Bush For President Campaign Committee. The Pioneer program solicited individual campaign supporters to commit to raising a minimum of $100,000 for the campaign by reaching out to a network of personal contacts and encouraging those contacts to contribute directly to the campaign. To reach their goal of $100,000 a Pioneer would have to build a network of at least 100 donors who could contribute the $1,000 maximum amount allowed under law. Each volunteer participant in

the Pioneer program was assigned an identification, or tracking number, which was to appear on all checks the individual Pioneer successfully solicited for the campaign. The Bush campaign monitored the progress of each volunteer at it Austin headquarters. In May 1999, when the existence of the Pioneer program became public, Mr. Donald Evans, the Bush campaign fundraising chairman, acknowledged that 150 individuals had signed up for the Pioneer program, but noted he did not expect all to reach the $100,000 goal.

4. To build the fundraising network and meet the campaign's goal of raising $50 million by the end of 1999, Bush had courted hundreds of money men who had traveled into Austin to lunch with the Governor either in a downtown restaurant or at the Governor's mansion. While the campaign initially refused to publicly disclose the identities of the 150 participants in the Pioneer program, the campaign revealed that Bush had enlisted the help of an undisclosed number of Republican governors and Washington lobbyists. Texas-based lobbyist Tom Loeffler was named as a Pioneer, as was Washington-based lobbyist Haley Barbour.

5. Essentially, the Pioneer program is what is commonly referred to as a "bundling" operation. Bundling is the term used when supporters of a particular candidate or campaign assist the campaign in raising money from their own networks of family, employees, friends, co-workers, etc. A "bundler" is often a donor that has pledged or contributed the maximum contribution allowed by law, but is willing to engage in further fundraising outreach to their own networks and encourage an unlimited number of other individuals to contribute to the candidate or campaign. Bundlers, therefore, facilitate the delivery of – and

often take and receive credit for – amounts of money that are many times the amount allowed by law for individual contributions. The practice of "bundling" campaign contributions and delivering them to candidates or campaigns is not new and is practiced by many modern federal campaigns. However, the Bush Pioneer program elevated this practice to new levels of sophistication. The practice of bundling campaign contributions, while contrary to the spirit of the federal campaign laws limiting individual contributions to candidates to $1,000 per election, is not prohibited as long a those who engage in it do not coerce others to give a campaign contribution.

6. In July of 1999, the campaign revealed further information about the Pioneer program. Jim Francis, Director of the Texas Public Safety Commission, served as the head of the Pioneer program. According to Francis, 115 individuals had reached the goal of bundling $100,000 each. Francis acknowledged there were close to 400 Bush supporters working toward the $100,000 goal, including the 115 that already there.

7. The degree to which the Bush Pioneer program was systemically tracking – and crediting – donors with contributions exceeding the individual limits, was further brought to light when a May 27, 1999 memo from Pioneer and Edison Electric Institute president, Tom Kuhn to electric utility industry executives became public. The Kuhn memo, written on Bush campaign committee stationary [sic], revealed that the campaign was not only tracking and crediting individuals for bundling over the limits, but was tracking bundlers with respect to the industries they represented. An excerpt from the Kuhn memo:

> "My personal thanks to all of you for taking a leadership role in gathering support for the June 22 reception honoring Governor George W. Bush . . . As you know, a very important part of the campaigns outreach to the business community is the use of tracking numbers for contributions. Both Don Evans and Jack Oliver have stressed the importance of having our industry incorporate the #1178 tracking number in your fundraising efforts. Listing your industry's code does not prevent you, any of your individual solicitors or your state from receiving credit for soliciting a contribution. It does ensure that our industry is credited, and that your progress is listed among the other business/industry sectors. If you have any questions about your industry's tracking information, please do not hesitate to let me know . . ."

8. Clearly, the conclusion that can be derived from the Bush campaign's own characterization of the program and the explicit description by Tom Kuhn of the importance of making sure the proper "codes" were included on donations so that the individual, state and industry would receive "credit for soliciting a contribution" from the campaign's key staff, must be that some benefit(s) would accrue to those who delivered the largest amounts or share of money. If there were no expectation of special access, rewards, or favors, there would have been no need to "track" contributions and "credit" them according to the industries, states and individuals generating them.

9. The Bush campaign made public a list of 115 Pioneers on July 19, 1999. According to the campaign, these 115 individuals were those who had met the goal of bundling a minimum of $100,000 in contributions to Bush. According to campaign spokespersons, individuals who

had not yet fulfilled the goal of reaching the $100,000 mark were not considered Pioneers and their names were not disclosed. Neither did the campaign publicly disclose (at the time or anytime subsequently) the total amounts that Pioneers were credited with raising. This and subsequent limited disclosures by the campaign were criticized by TPJ. We believed the public had the right to know the total amounts Pioneers were being credited with raising, and the right to know the names and amounts credited to any individuals the campaign might be tracking regardless of whether they had reached the magic $100,000 number.

10. Periodic disclosures of those considered to be Pioneers according the campaign's definition resulted in the release of 226 names. In July 2000, TPJ published an analysis of the occupations and economic interests of 212 Pioneers whose names had been disclosed through June 2000. The report concluded that the ranks of the Pioneers were dominated by corporate executives and lobbyists. The report classified the known Pioneers by their business and primary economic or ideological interests, tracked the total money each spent on politics, and provided individual profiles of each. The major findings of the report were:

- 133 Pioneers were business executives, 16 of whom George W. Bush appointed to state government posts.
- The 212 identified Pioneers, who by definition had raised a minimum of $21.2 million for Bush's presidential effort, had also personally contributed an additional $7.1 million to federal candidates and PACs since the '96 election cycle.

- When the 212 were identified by their primary economic interest or profession 44 of the Pioneers were classified as Lawyers & Lobbyists, 38 represented the Financial sector, 28 were from the Energy & Natural Resources sector (dominated by oil and gas), 24 were from the Real Estate sector, and 23 were classified as representing Miscellaneous Businesses.

11. Members and/or potential members of the Pioneer network enjoyed special access to Governor Bush and the campaign, prior to the official announcement that he would pursue the presidency, and during the campaign itself. Governor Bush met with Pioneers and future or potential Pioneers on a number of occasions as documented in the media:

- On December 18, 1998 a group gathered at the Governors Mansion to discuss the campaign. That group included California financier Brad Freeman and California agribusiness tycoon Howard Leach, both later designated by the campaign as Pioneers.

- In the Spring of 1999, Bush met in Austin with Christine Toretti, head of Pennsylvania drilling company who pledged to deliver $1 million to the primary campaign yet was never designated a Pioneer.

- At least seven "Pioneers" stayed at least one night in the Texas governor's mansion between February 1, 1999 and March of 2000. These Pioneers included Don Jordan of Relient Energy, investment banker Brad Freeman, Craig Stapleton of Marsh and McLellan, and Roland Betts of Chelsea Piers Management.

- According to the Center for Responsive Politics, in June 1999, Charles Cawley, president of MBNA America Bank, hosted a dinner at his summer home in Kennebunkport, Maine. More than 200 guests gathered to help underwrite the presidential campaign of George W. Bush, the party's guest of honor. Over the next year, Cawley would personally raise at least $100,000 for the Bush campaign, qualifying him as a Pioneer, helping to secure MBNA's slot as Bush's single top contribution with more than $240,000 in contributions from its employees during 1999-2000.

- On November 15, 1999, the Bush campaign hosted a gathering of 300 top fundraisers in Austin, TX, 150 of whom had been designated "Pioneers."

- August 16, 2002, Bush held a gathering at his Crawford, TX residence for the "Pioneer" network.

12. Many of the Pioneers were rewarded with government appointments. A report released by Texan [sic] for Public Justice on March 5, 2002 shows that 43 of the publicly named Pioneers had received presidential appointments of some kind. Again, by definition, these 43 Pioneer appointees delivered more than $4.3 million to Bush's presidential race. Pioneers who received Bush appointments include:

- 19 U.S. ambassadors to countries from Austria to Uruguay;

- Five members of the Energy Department Transition Team that first envisioned Bush's supply-side energy policy (including ex-Enron CEO Ken Lay); and

- Two seats on the President's Foreign Intelligence Advisory Board.

13. It is impossible to determine exactly how much money the Pioneer network was responsible for raising for the Bush campaign, given the fact that the campaign has not publicly disclosed that information nor produced that information for this litigation. At a bare minimum, relying on the Bush campaign's limited public disclosure, the Pioneers were responsible for raising $22.6 million, or approximately one-fifth of the private money raised by the campaign. (Based on the campaign's public release of the names of 224 Pioneers who achieved their "goal" of raising $100,000.)

14. It is likely that the Pioneer network raised many millions more than the acknowledged $22.6 million. According to documents produced by the Bush for President Committee for this litigation, the campaign was tracking a total of 431 individuals as part of the Pioneer program. This means there were at least 207 individuals who pledged to raise $100,000 but apparently fell short of the goal, or achieved the goal but were not disclosed by the campaign. It is also quite likely that several, if not many of the Pioneers raised well more than $100,000 for the campaign. Again, documents produced by the Bush for President Committee for this litigation reveals that 34 Pioneers pledged to raise more than $100,000 with 29 of them committing to raise $250,000 or more and three pledging to raise more than $1,000,000. When considering that the campaign did not disclose how much the "underachieving" and "overachieving" Pioneers delivered, it is reasonable to speculate that the total amount of money raised by the Pioneer bundling operation may have reached $50,000,000 or more.

15. The increased limits on individual contributions called for under the Bipartisan Campaign Reform Act of 2002 (BCRA) would undoubtedly increase the ability of elite fundraisers, such as those who comprise the Bush Pioneers, to deliver larger amounts of money to political campaigns. With those larger amounts of funds, would likely come more access and potential influence over public policy and governmental actions. I believe it is reasonable to speculate that under the more indulgent contribution limits of BCRA, the same Bush Pioneer network might have been able to provide the campaign with many millions of dollars more than it delivered for the 2000 election effort. It is not unrealistic to speculate that, under BCRA, the Pioneers would be able to double the amount of contributions delivered in 2000, meaning that a relatively small handful of citizens could be responsible for delivering anywhere from $45 million up to $100 million to a federal presidential effort – enough money to fund an entire campaign.

16. The sources that I have relied on in forming my opinions are attached as Exhibits B-Q.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 19, 2002

/s/ Craig McDonald
Craig McDonald

Exhibit 4

IN UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et. al.*,	Civil Action No. 02-cv-877-KLH-CKK-RJL
	consolidated with 02-cv-582-KLH-CKK-RJL (lead case)
Plaintiffs,	
	and
-vs-	02-cv-581-KLH-CKK-RJL
	02-cv-633-KLH-CKK-RJL
	02-cv-751-KLH-CKK-RJL
THE FEDERAL ELECTION COMMISSION *et al.*,	02-cv-753-KLH-CKK-RJL
	02-cv-754-KLH-CKK-RJL
	02-cv-781-KLH-CKK-RJL
	02-cv-874-KLH-CKK-RJL
	02-cv-875-KLH-CKK-RJL
Defendants.	02-cv-881-KLH-CKK-RJL

DECLARATION AND EXPERT REPORT OF PROFESSOR THOMAS STRATMANN

I, Thomas Stratmann, hereby declare as follows:

1. I am a Professor of Economics at George Mason University. I have received a Ph. D. in Economics from the University of Maryland in 1990, and a M.A. in Economics from the University of Maryland in 1988. I have given expert testimony in a campaign finance case in Montana (Montana Right to Life Assoc. v. Eddleman, No. CV 96-165-BLG-JDS), and in Vermont (Landell v. Sorrell, 118 F. Supp. 2d 459 (D. Vt. 2000)). I receive a $175 fee per hour for

working on this case. A current version of my CV is attached to the affidavit.

2. My research on campaign finance issues falls into three areas. In one research area I examine whether limits on contributions to candidates make it more difficult or less difficult for challengers to compete with incumbents. This work examines whether contribution limits make elections more or less competitive. In another research area I examine whether contributions to legislators affect the voting behavior of legislators and, specifically, whether there is a causal link between contributions and legislators' voting behavior. In a third research area I examine whether contributors pursue solely an "electoral strategy" in allocating their contributions across legislators (i.e., do they give money solely to assist the election of legislators who support the contributors' policy views) or whether the allocation of contributions reflects a "legislative strategy" (i.e., giving money to influence legislators' votes on legislation).

Contribution limits and competitiveness of elections.

3. The subject of the causal relationship between campaign contribution limits and the outcome of elections has been debated for many years. Some argue that limiting campaign contributions amounts to "incumbent protection". This school of thought holds that contribution limits are damaging to challengers as a class because they prevent them from getting their message out and competing against an incumbent with strong name recognition. Moreover, reductions in contributions would hurt challengers overall if each dollar is marginally more important

to challengers. Others contend that limits make challengers more competitive. They claim that contribution limits are helpful to challengers as a class because they reduce the amount by which incumbents can outspend challengers.

4. Studies conducted at the federal level offer little insight regarding the effects of contribution limits because these studies took place at the federal level, where federal campaign finance laws had not changed since the mid-1970s. But, there is another way to determine the effects of contribution limits on election outcomes. By turning to the states, the traditional laboratories of democracy, we can compare states that have no contribution limits to those that have them. State campaign finance laws exhibit a lot of variation across states and over time. Since the late1970s, many states have enacted and changed their own campaign finance laws and therefore states provide a natural testing ground for theoretical campaign finance models. If contribution limits amount to "incumbent protection," then challengers should do comparatively well in states with no limits, and fare more poorly as contribution limits get lower in other states.

5. My work in "Competition Policy for Elections: Do Campaign Contribution Limits Matter?" co-authored with Francisco J. Aparicio-Castillo, looks at the states with contribution limits and without limits and empirically measures changes in competitiveness. The analysis is based on more than 30,000 elections to state lower houses in 45 states between 1980 and 2001. I measure competitiveness by examining electoral margins in winner-take-all elections, which are dominant in U.S. elections. I look at the margin of victory of the winning candidate to measure "closeness" of elections and at the percentage of races won by challengers to measure how often incumbents get re-elected.

I also look at the number of candidates in each general election, which should be a good indicator of the ability and willingness of challengers to mount a campaign either for the purposes of winning or for the purposes of raising important issues that may not yet have majority support.

6. The multi-state, multi-year analysis shows that states with contribution limits have closer elections. I document that campaign contribution limits favor challengers by reducing the incumbent margin of victory.

7. The existence of a contribution limit reduced the margin of victory for open seat candidates and incumbents who were in office after the passage of the contribution limits by 7.6% for individual contribution limits, 9.4% for PAC limits, 4.1% for limits on corporations (although this percentage is not statically [sic] significant at conventional levels) 6.5% for limits on unions, and 6.9% for limits on party giving.

8. If open seat races are removed, we can look only at the effect of contribution limits on incumbents. Incumbents who are in office when campaign contribution limits are passed may not experience the full effect of those limits. Those incumbents have had years of campaigning under the old limits to build up their brand name recognition. They also have had the chance to build up large reserves of campaign funds under the old limits that they may use for future campaigns even after new limits have gone into effect. To isolate this effect, we can look only at incumbents who take office after a change in campaign finance law has gone into effect. Examining races that involve incumbents only, I find that individual limits reduce the margin of victory for post-limit incumbents by 6% while it reduces the margin of victory for pre-limit

incumbents by 3.1%. We find similar effects for PACs, corporations, unions and parties.

9. The findings show that all forms of contribution limits have a negative impact on incumbents' margin of victory, although they have a lesser impact on incumbents who are already in office when the law takes effect. Regression results also indicate that the presence of contribution limits results in a 0.1 (or 5%) increase in the number of candidates (in races with post-limit incumbents), taking the average from 1.8 to 1.9 candidates in a race.

10. The data further indicate that the lower the contribution limit, the greater the increase in competitiveness overall. When examining races with incumbents the results show that lowering a contribution limit by $1,000 when controlling for factors such as term limits and election day registration, time invariant state characteristics and factors that influence election outcomes nationwide, reduces the margin of victory for incumbents by 5.4 percent. When this is further controlled to account for the number of candidates in the race, then a $1,000 decrease in contribution limits yields a 3% decrease in incumbent margin of victory. When all races are included, not just incumbents, a $1,000 decrease in contribution limits results in a 1.5% to 2.6% reduction in the margin of victory, so lowering a limit appears to have a slightly larger impact on incumbents than open seat candidates.

11. Given that incumbents on average win elections with 78% of the vote, the decrease in vote margins from contribution limits is not large enough to cause most incumbents to lose. When the estimate on incumbent vote

loss is applied to the actual margins of victory by incumbents, I find that approximately 4% of successful incumbents would have lost had the contribution limits in their races been lowered by $2,000. The presence of individual contribution limits result in a 1.1% reduction in likelihood of incumbent victories, and when limits are placed on all sources of contributions, (individuals, PACs, corporations, unions, and parties) the likelihood of incumbent victory reduces by 2.1%.

12. The data show that contribution limits make races closer, reduce the incumbency advantage, and lead to more candidates in elections. The data do not lend support to the hypothesis that contribution limits protect incumbents. Quite to the contrary, lower contribution limits help challengers, make them more competitive, and increase the likelihood they emerge as winners in electoral races. Therefore, the new higher limits on hard-money contributions in the federal Bipartisan Campaign Reform Act are likely to benefit incumbents at the expense of challengers.

Campaign contributions and the voting behavior of legislators.

13. Whether campaign contributions induce a legislator to favor the interests of the contributor has been a long-standing research questions. In particular, the question is whether contributions to legislators affect the voting behavior of legislators and whether there is a causal link between contributions and legislators' voting behavior.

14. In my 1991 and 1995 articles (*Southern Economic Journal* 1991, *Review of Economics and Statistics*,

1995) I analyze roll call votes on subsidies to the agricultural sector and to examine whether campaign contributions from agriculture caused legislators to vote in agricultural interests. I examine roll call votes on amendments to the 1981 and 1985 Farm Bill as well as votes on agricultural appropriations and emergency funding. The outcome of these votes was important to the agricultural sector, as these votes provided funding, subsidies, and favorable regulations for particular agricultural sectors. The benefits associated with these votes were concentrated among the agricultural sector, while the costs were distributed throughout the electorate.

15. Between two articles I analyze a total of fifteen roll call votes in the U.S. House of Representatives in 1981 and 1985. All votes are on agricultural issues such changes in the level of subsidies for dairy, peanuts, sugar, tobacco, and wheat, while others were votes on emergency funding for agriculture, appropriation bills for agriculture, and the final vote on the agricultural bill. Some of these votes proposed increasing government farm subsidies, others proposed decreasing farm subsidies.

16. Any research examining the effects of campaign contributions on voting behavior, and wanting to establish a causal effect going from contributions to voting behavior, has to recognize that contributors may give to their friends, and thus that a vote favoring a contributor may not indicate that the vote has been 'bought'. I address this issue by using a well accepted statistical technique, called two-stage least squares, that allows the researcher to tease out the causal effect going from campaign contributions received to voting behavior, if such an effect is in the data.

17. In my regression analysis I examine whether contributions from the dairy industry influence votes on dairy issues, and proceed with an equally detailed analysis for votes on tobacco, wheat, sugar, and peanut issues. For analyzing the Farm bill and emergency finding I examine whether contributions from the entire agricultural sector cause legislators to vote in agricultural interests.

18. My research shows that campaign contributions are effective in altering politicians' voting behavior. I find that in most of these votes, campaign contributions increase the probability that a legislator is voting in contributors' interests. My 1991 and 1995 articles document that contributions from agricultural Political Action Committees (PACs) increased the probability that legislators would vote in favor of PAC interests. Not only are contributions in the current election cycle important for influencing the voting behavior of politicians, but contributions in the period prior to the roll call votes are also important. For example, dairy contributions in 1983/84 electoral cycle and contributions received early in 1985 influence a dairy vote late in 1985.

19. An alternative measure to assess the impact of campaign contributions is to examine whether the outcome of the congressional roll call vote would have changed if congressmen had received no campaign contributions. I examine this in my 1991 article and find that in two out of the ten votes examined, agricultural interests would have lost the vote if campaign contributions were prohibited. For example, an amendment to increase sugar subsidies passed by a vote of 267-146. I estimate that without campaign contributions this amendment would have been defeated 203-210. These numbers indicate that

campaign contributions are quite effective in changing legislators' voting behavior.

20. In my most recent work on this topic I have conducted a detailed study examining changes in voting behavior in financial services legislation. This paper is forthcoming in the October 2002 issue of the *Journal of Law and Economics*. I examine two votes in the U.S. House of Representatives on the repeal of the Glass Steagall Act. One vote took place in 1991 and the other vote took place in 1998. No roll call vote on the repeal of the Glass Steagall Act took place between these two dates. Banking interests favored the repeal of the Glass Steagall Act, while insurance and securities interests opposed it.

21. Some legislators sided with banking interests in 1991 and switched sides in 1998 by voting for insurance and securities interests. Other legislators switched from voting for insurance and securities interests in 1991 to banking interests in 1998. In this study I analyze why legislators changed their position between 1991 and 1998. I find that changes in the flow of financial services campaign contributions can explain much of the change in voting behavior. Moreover, the article documents that junior legislators' voting behavior is particularly susceptible to being influenced by campaign contributions. In particular, this study examines whether changes in contribution flows can explain why legislators switched sides. I find that legislators switched their voting behavior from insurance/securities to banking interests when they received larger banking contributions in the late 1990s than in the early 1990s.

22. This is the first study of its kind that examines whether changes in contributions over time lead to

changes in legislators' voting. I find that changes in contributions lead to changes in voting and I believe that this is a causal effect. One could argue that some legislators changed their position from favoring banking interests to favoring insurance interests and that this was the reason that they received more contributions. However, though this is possible, I believe that it is unlikely. Financial services legislation is not a salient issue in legislators home district, giving them little opportunity to stake out a public position. One of the few opportunities to stake out a position is to vote on this issue, and there were no roll call votes between 1991 and 1998, which would have allowed them to take a position favoring one interest over another. Moreover, there is not evidence of substantial changes in the desire of the home constituency with respect to the repeal of the Glass Steagall Act, which could have caused a legislator to shift position. Thus I am confident that this paper estimates a causal effect of money on votes.

What contributors do: assist the election of legislators who support the contributors' policy views or give money to influence legislators' votes on legislation?

23. Another important question in campaign finance is whether contributors pursue solely an "electoral strategy" in allocating their contributions across legislators (i.e., do they give money solely to assist the election of legislators who support the contributors' policy views) or whether the allocation of contributions reflects a "legislative strategy" (i.e., giving money to influence legislators' votes on legislation)?

24. My research findings published in the *Journal of Political Economy* 1992, the *Journal of Law and Economics* 1996, and the *Journal of Law and Economics* 1998 shows that PACs allocate contributions across legislators in ways that are consistent with the objective of influencing legislators' votes on legislation.

25. In the *Journal of Political Economy* article I raise the question of how PACs would behave if their objective were to influence legislators' voting decisions. I argue that the rational allocation of funds implies that PACs do not contribute to those legislators who will vote in their favor regardless of whether or not they receive contributions, but rather contribute to legislators who are likely to be opposed to their interests. The more a legislator is opposed to PAC interests, the more the PAC is going to have to contribute to swing his or her voting decision. Moreover, given that Congress uses simple majority rule to decide on issues such as, for example, tariffs, subsidies, and price supports, PACs have an incentive to give contributions in order to secure a majority, not unanimity. Therefore, if PACs could rank legislators in terms of how likely they are to oppose PACs' interest, most contributions would have to be given to the median legislator, i.e., the legislator with the median level of opposition to the PACs' interests. Legislators with declining opposition would receive fewer contributions, in line with their level of opposition.

26. To test whether contributors give less to legislators who are compelled to vote in PAC interests because of constituency interests, it is important to identify a sector in the economy in which voters in some constituencies have the same interest as the PAC. I identified the farm sector, which has a voting constituency in most congressional

districts, as well as PACs that work for farm interests. Identifying the number of potential farm interest supporters in a legislative district allows the ranking of legislators in terms of their likelihood of supporting PAC interests: the smaller the farm constituency size the less likely the legislator will support farm PAC interests, and thus the larger the necessary contribution required to change his or her voting behavior, keeping in mind that legislators with more than the median amount of opposition do not need to receive any contributions.

27. My empirical findings show that the pattern of giving by agricultural PACs follows the line of reasoning I outlined. Legislators with virtually no farm constituency, such as Representatives from New York City and Los Angeles, receive little or no farm contributions. Most contributions are received by legislators with a median farm constituency (for example, legislators from Maryland), and, the larger the farm constituency beyond the median (legislators from Montana, and the Dakotas), the lower the amount contributed by farm PACs.

28. In my 1996 *Journal of Law and Economics* article I analyze the contribution pattern of labor PACs and corporate PACs. I hypothesize that if PACs were contributing primarily to assist the election of legislators who support the contributors' policy views, labor PACs would contribute more money to liberal Democrats than to conservative Democrats and corporations would contribute more to conservative Republicans than to liberal Republicans. If these PACs would try to influence legislators' votes (using similar logic as in my *Journal of Political Economy* article) then labor PACs would concentrate their contributions on conservative Democrats. Similarly corporate PACs would concentrate their contributions liberal Republicans.

Using regression analysis, and controlling for a variety of factors, including the closeness of the electoral race, I documented that labor PACs contribute more to conservative Democrats than they do to liberal Democrats, and that corporate PACs give more to liberal Republicans than they do to conservative Republicans. The findings show that PACs contribute less to legislators who will vote clearly in their favor than to legislators who are undecided or potentially opposed to their interests.

29. The 1998 *Journal of Law and Economics* article argues that if the contribution-for-vote exchange occurs, in part, at the time the legislation is voted on, then one can expect that contributions flow around the time of the House roll call votes. Focusing on farm legislation, this article documents that there is a significant increase in contributions at the time that congressional votes are taken.

30. To a legislator, a one dollar campaign contribution from PACs is as valuable as a one dollar campaign contribution from individuals. Both contributions will be equally valuable in his or her reelection campaign. Therefore, on a dollar for dollar basis one expects contributions from individuals to have a very similar effect on legislators' votes as contributions from PACs. Although contribution limits are lower for individuals than for PACs, individuals can bundle contributions, which will allow them to exert a stronger influence on legislators' decisions. There is no reason to believe that PAC monies exert different influence on legislative behavior than do monies from individuals. Thus, the conclusions that I have reached regarding PAC behavior can be extended to contributions from individuals.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge, information and belief.

This 19th day of September, 2002.

/s/ Thomas Stratmann
Thomas Stratmann

Exhibit 16

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et al.*, *Plaintiffs*, -vs- THE FEDERAL ELECTION COMMISSION *et al.*, *Defendants.*	Civil Action No. 02-cv-877-KLH-CKK-RJL *consolidated with* 02-cv-582-KLH-CKK-RJL **(lead case)** *and* 02-cv-581-KLH-CKK-RJL 02-cv-633-KLH-CKK-RJL 02-cv-751-KLH-CKK-RJL 02-cv-753-KLH-CKK-RJL 02-cv-754-KLH-CKK-RJL 02-cv-781-KLH-CKK-RJL 02-cv-874-KLH-CKK-RJL 02-cv-875-KLH-CKK-RJL 02-cv-881-KLH-CKK-RJL

Declaration of Sam Gejdenson

I, Sam Gejdenson, declare as follows:

1. I served as a member of the U.S. House of Representatives from the Second District of Connecticut from 1981 to 2000 and now run an international trade company, Gejdenson International.

2. During my tenure in Congress, I sponsored campaign finance reform legislation, and held many hearings on this topic across the United States. It became clear to me during these hearings that as the size of campaign contributions has increased, the average voter has felt more irrelevant to electoral politics. The growing importance of the

largest contributions has depressed voter turnout and volunteerism. The new generation of voters believes that politics is primarily about raising money to buy television advertising.

3. The increased contribution limits of the Bipartisan Campaign Finance Reform Act (BCRA) will convince many voters that their participation in politics is meaningless. When the wealthy few are permitted to contribute $2,000 per election (or $4,000 per cycle), and to gather $2,000 from wealthy friends and relatives, those who cannot contribute or solicit large donations will be marginalized from politics. This will be even truer in cases where candidates with a wealthy, self-funded opponent are able to take contributions twice as high (or, in Senate races, up to $12,000).

4. The increased contribution limits will enable those candidates who have access to large contributors to raise far more money. Those who lack such access will either be discouraged from seeking office, or will have to spend far more time fundraising. Under the current campaign finance system, I have observed that Members of Congress spend about three hours a day seeking contributions from large donors during the campaign, and at least three to six hours a week fundraising throughout the term. This will only worsen when maximum donors are able to multiply their clout, and fundraising will displace contact with voters.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 3 day of October, 2002.

/s/ Sam Gejdenson
Sam Gejdenson

Exhibit 17

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et al.*,	Civil Action No. 02-cv-877-KLH-CKK-RJL
Plaintiffs,	*consolidated with* 02-cv-582-KLH-CKK-RJL **(lead case)**
-vs-	
THE FEDERAL ELECTION COMMISSION *et al.*,	*and* 02-cv-581-KLH-CKK-RJL 02-cv-633-KLH-CKK-RJL 02-cv-751-KLH-CKK-RJL 02-cv-753-KLH-CKK-RJL 02-cv-754-KLH-CKK-RJL 02-cv-781-KLH-CKK-RJL 02-cv-874-KLH-CKK-RJL 02-cv-875-KLH-CKK-RJL 02-cv-881-KLH-CKK-RJL
– *Defendants*.	

DECLARATION OF PAUL SIMON

I, Paul Simon, declare as follows:

1. I served as a member of the U.S. House of Representatives from Illinois from 1975 through 1984, and then as a U.S. Senator for Illinois from 1985 through 1996. I am currently the Director of the Public Policy Institute at Southern Illinois University at Carbondale.

2. Based on my experience as a Senator and as a U.S. Representative, I believe that the increased individual contribution limits enacted in the Bipartisan Campaign

Finance Reform Act of 2002 (BCRA) will increase the influence of the largest campaign donors to such an extent that those who lack wealth, or access to wealth, will not be able to participate equally in the political process.

3. The vast majority of my former constituents, and of U.S. voters, are unable to make large campaign contributions. Doubling the contribution limits to $2,000 per election – and up to $12,000 in Senate races with a self-funded candidate – will place the highest contributions even further out of reach for these people.

4. No member of Congress, not even the most scrupulous, is unaware of his or her largest contributors, and not even the most scrupulous members will ignore them. As a Senator, if I returned to my home or to a hotel room late at night and found twenty phone messages, one from a maximum donor and nineteen from people whose names I did not recognize, I would not make twenty calls but I might make one call: to the maximum donor.

5. Like other members of Congress (except the most wealthy), I was forced to fundraise throughout my terms in office. The potential donors whom I regularly called personally were those who had given the maximum, or were likely to do so. The donors to whom I regularly sent personal thank-you notes were those who had given the maximum. The donors who were regularly invited to small receptions with me, or who had their photograph taken with me, were also the highest donors.

6. Because money has become critical to winning re-election, every member of Congress is subject to similar fundraising pressures. Visitors to the U.S. Senate may be discouraged to see only two or three Senators on the floor debating the issue at hand at any given moment. They

would be appalled if they knew the reality, that far more Senators were on the phone trying to raise campaign funds.

7. It was clear to me that the largest donors expected favorable policy consideration in exchange for their contributions. For example, after I voted in favor of the North American Free Trade Agreement (NAFTA) my long-time friends in the labor movement were displeased; one union official observed to a small gathering that I had received over $600,000 in labor contributions, with the clear implication that I therefore should have voted against NAFTA.

8. Sensitivity to large donors' concerns was a fact of life known to all Senators and Representatives. When I once complained to a meeting of Democrats that the Senate was caving in to special interests, a fellow Senator rebuked me by saying, "Special interests. Special interests. I'm tired of hearing about special interests. We've got to face who's buttering our bread."

9. There were several occasions when I believed that the outcomes of policy debates were influenced by campaign contributions. Defense appropriations for unnecessary projects, such as the B-2 Bomber, could not be cut without the loss of contributions from donors associated with the defense industry, and so many unnecessary programs continue. President Clinton's health care bill was defeated, in part, because donors associated with the insurance industry and American Medical Association give far more to members' campaigns than the 41 million Americans who lack health insurance.

10. The increased individual contribution limits will exacerbate the disproportionate access and influence that the largest donors enjoy. Those who are able to contribute the

maximum amount, and gather maximum contributions from friends, family and associates, will fund an ever-greater share of campaign budgets. Lower-income citizens will be discouraged from active participation in political campaigns.

11. The increased contribution limits will only increase the amount of time Senators and Representatives spend fundraising. Members of Congress deter potential challengers, and assure electoral victory, by raising as much money as possible. Therefore, Members of Congress will continue to maximize their fundraising time. The increased limits will make each potential maximum donor doubly attractive, and will only ratchet up the arms race in campaign spending.

12. I remember when I was in the fourth grade or maybe fifth grade, learning about the philosophical differences between Alexander Hamilton and Thomas Jefferson. Hamilton wanted to give people of wealth and property greater voice in government and Jefferson want to treat all citizens equally. How proud I was that Jefferson prevailed! But with our present system of financing we have ended up siding with Hamilton, and Jefferson is the loser.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 18 day of September, 2002.

/s/ Paul Simon
Paul Simon

Exhibit 18

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et al.*, *Plaintiffs*, -vs- THE FEDERAL ELECTION COMMISSION *et al.*, *Defendants.*	Civil Action No. 02-cv-877-KLH-CKK-RJL *consolidated with* 02-cv-582-KLH-CKK-RJL **(lead case)** *and* 02-cv-581-KLH-CKK-RJL 02-cv-633-KLH-CKK-RJL 02-cv-751-KLH-CKK-RJL 02-cv-753-KLH-CKK-RJL 02-cv-754-KLH-CKK-RJL 02-cv-781-KLH-CKK-RJL 02-cv-874-KLH-CKK-RJL 02-cv-875-KLH-CKK-RJL 02-cv-881-KLH-CKK-RJL

Declaration of Pat Williams

I, Pat Williams, declare as follows:

1. I served as a member of the U.S. House of Representatives representing Montana from 1979 through 1996. I am currently the Executive Director of the Center for the Rocky Mountains West.

2. Based on my experience running for office, and my experience as a Member of Congress, I believe that the increased contribution limits of the Bipartisan Campaign Finance Reform Act (BCRA) will permit wealthy interests to more heavily influence electoral outcomes and will prevent the non-wealthy from equal political participation.

3. In Montana and other Western states, voters overwhelmingly express pro-environmental positions in polls, and yet Westerners are sending to Congress representatives who favor extractive industries, such as mining and logging, and oppose environmental regulation. Candidates who favor these industries have attracted far more money in contributions, enabling them to dominate the media with misleading 30-second television ads that skew the ability of voters to choose candidates who really represent their interests. Thus the extractive industries, by amassing contributions from executives, their family members and associates, have been able to disproportionately influence election results. By potentially doubling the amount of contributions that these industries can gather, the BCRA will radically increase their ability to determine electoral outcomes.

4. There is no doubt in my mind that those giving the largest contributions expect preferential access and disproportionate influence. As one sign of this, members of committees with jurisdiction over matters of concern to wealthy interests attract large numbers of maximum contributions.

5. Neither do I doubt that money does buy access for large donors. In my own case, I tried not to pay much attention to who was or was not contributing to my campaigns. But if my secretary brought me a list of people wanting to see me, and if a contributor who had helped elect me was on that list, I would meet with that person as a political friend. And often money made people political friends; in many cases, when I left office I noted that the friendship with a donor had dried on the vine, and I realized that it was all about access to the office I held.

6. Money has become the driving force behind elections. Trying to be in politics and not worry about money would be like trying to swim across Lake Michigan without getting wet. It is not possible. The increased contribution limits, by opening the spigot and adding more money to elections, threatens a system that is already in serious trouble. I speak regularly with elder voters about public land policy in the West, and they are discouraged from political participation by the influence of money. Recently, one gentleman told me, "Pat, I'm very interested in this. You have told me that public lands are my lands, but I don't see how I can influence policy over my own property. I've given up trying because I've realized that the people with all the money have all the say."

7. The increased contribution limits will convince many more voters that their votes, their small campaign contributions, and their political participation are meaningless. If many average people already feel powerless in the face of $1000 contributions, doubling that limit (and even further multiplying it for candidates faced with a wealthy, self-funded opponent) will worsen the problem to the point where equal political participation is denied to those without wealth.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 3rd day of October, 2002.

/s/ Pat Williams
Pat Williams

Exhibit 19

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et al.*,	Civil Action No. 02-cv-877-KLH-CKK-RJL
Plaintiffs,	*consolidated with*
-vs-	02-cv-582-KLH-CKK-RJL **(lead case)**
THE FEDERAL ELECTION COMMISSION *et al.*,	*and*
	02-cv-581-KLH-CKK-RJL
	02-cv-633-KLH-CKK-RJL
Defendants.	02-cv-751-KLH-CKK-RJL
	02-cv-753-KLH-CKK-RJL
	02-cv-754-KLH-CKK-RJL
	02-cv-781-KLH-CKK-RJL
	02-cv-874-KLH-CKK-RJL
	02-cv-875-KLH-CKK-RJL
	02-cv-881-KLH-CKK-RJL

Declaration of Dr. Thomas A. Caiazzo

I, Tom Caiazzo, declare as follows:

1. I am a political science professor at Collin County Community College in Plano, Texas, and hold a terminal degree in political science. I have taught political science at the community college and university level for the past eleven years.

2. I ran in 2002 as a Republican seeking to represent Texas' third congressional district in the U.S. House of Representatives. I was defeated in the Republican primary, receiving 15.7% of the vote

against incumbent Sam Johnson. I raised approximately $12,000 for this race, while Mr. Johnson has raised over $500,000.

3. Based upon my experience as a candidate for Representative in the U.S. Congress, I believe that the increased individual contribution limits enacted in the Bipartisan Campaign Finance Reform Act of 2002 (BCRA) will make it more difficult for those without wealth or access to wealth to mount a viable campaign for federal office. Furthermore, the higher contribution limits will increase the influence of the largest campaign donors to such an extent that those who lack wealth, or access to wealth, will be unable to exercise their constitutionally protected right to equal participation in the political process.

4. I believe that money was a deciding factor in my primary loss. In spite of the qualifications listed above and my experience helping other Republican candidate's seek and win elective office, as well as being involved/member of the [sic]

5. [sic] local Republican Men's', Young, and College organizations], I was not able to compete effectively for the Republican party's nomination. This is largely due to the fact that my opponent outspent me nearly 20 to 1. The fact that 94% of the candidates who raised the most money won their congressional elections in 2000 backs up my own experience.

6. My opponent's huge fundraising advantage allowed him to boost his already sizable name recognition, communicate a clear message, and drown out my attempts to communicate with the public. He was able to accomplish this primarily through television and radio advertisements. The incumbent

was continuously on the radio and television. Wheras [sic] he was on major radio and television stations/frequencies at least fifty times, I ran only one radio ad and one television ad, which was played no more than 10 times. The incumbent also had a plethora of money to flood primary voters with attractive mail-outs and flyers; some primary voters received four in the final week of the campaign.

7. Mr. Johnson was able to fund this media barrage by raising money from special interests and wealthy individuals. In addition to $269,667 from political action committees, over 99% of which came from business PACs, Mr. Johnson has raised $341,949 from individuals. At least $119,000 of this individual money came at the $1000 level or above. In the 2000 election cycle, only 1/9 of 1% of voting age Americans contributed $1,000 to a candidate for federal office.

8. I elected to run a grassroots campaign for Congress. I sought to engage – and raise funds from – average Texans. Therefore I did not hold expensive fundraisers or seek many $1,000 checks. Instead I held simple bbq and dinner parties. I received only six $1000 checks, compared with my opponent's 119.

9. Because many of Mr. Johnson's campaign contributions came at the existing limit, it is reasonable to assume that the increased contribution limits enacted as part of BCRA – had they been in effect for my race – would have enabled my opponent to significantly increase his fundraising. Because few of my contributors could afford to contribute even the current limit, the increased limits would not have had a significant impact on my fundraising ability.

10. Therefore, I assert that I would have been less competitive with Mr. Johnson had the increased limits been in effect. BCRA would make it more difficult for grassroots candidates who raise money from average citizens to mount effective campaigns for office.

11. Fundraising concerns generally – and the increases in federal contribution limits contained in BCRA specifically – will play an important role in my decision about whether to run for federal office in the future. The higher contribution limits will make it even more difficult for me to run a grassroots campaign geared towards average Texans and run competitively against a candidate who raises big money from wealthy individuals and special interests.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 30th day of September 2002.

/s/ Thomas A. Caiazzo
Thomas A. Caiazzo

Exhibit 20

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et. al.*, *Plaintiffs,* -vs- THE FEDERAL ELECTION COMMISSION *et al.*, *Defendants.*	Civil Action No. 02-cv-877-KLH-CKK-RJL *consolidated with* 02-cv-582-KLH-CKK-RJL **(lead case)** *and* 02-cv-581-KLH-CKK-RJL 02-cv-633-KLH-CKK-RJL 02-cv-751-KLH-CKK-RJL 02-cv-753-KLH-CKK-RJL 02-cv-754-KLH-CKK-RJL 02-cv-781-KLH-CKK-RJL 02-cv-874-KLH-CKK-RJL 02-cv-875-KLH-CKK-RJL **02-cv-881-KLH-CKK-RJL**

Declaration of Gail Crook

I, Gail Crook, declare as follows:

1. I am currently retired from a 34-year career in public service. I worked in the budget office at the Air Force Headquarters, for four years as the GS-14 appropriation manager of the annually appropriated $11 – 18 billion two-year Research, Development, Test and Evaluation appropriation, receiving sustained superior performance evaluations. For approximately seven years I worked national issues for the Department of Defense as a GM 15 budget and security assistance analyst. I receive at least one monetary performance award

and two outstanding performance awards. I graduated with a bachelor's degree from Central State University, Edmond, Oklahoma, in the top ten percent of my graduating class and have a master's degree in Business Administration. I paid for my education myself. I have raised three children. I have served my community in the Air Force Reserves for 24 years and as a non-partisan election official for 12 years. I meet all the qualifications required of candidates for the U.S. Senate: I am over 30 years of age. I have resided in Northern Virginia for more than one year (approximately 20 years) and since I was born in the United States I have been a U.S. citizen for more than nine years.

2. I am currently running as a write-in candidate for U.S. Senate in Virginia.

3. I decided to run for office because I was dissatisfied with the representation being provided by the incumbent, Senator John Warner. As a parent, I feel a responsibility to preserve the environment and improve education for future generations. As a public servant, I feel a responsibility to provide Virginians an opportunity to lobby effectively and to ensure that our laws regarding arms sales are followed. Initially, I approached the Democratic Party to volunteer to work for a candidate who would oppose Sen. Warner. When the *Washington Post* reported, February - March 2002, that there was no one planning to oppose Mr. Warner, I decided to run myself.

4. I contacted the Executive Director of the Democratic Party in Richmond to express my interest in running against Sen. Warner. I was told that if I was to run, the party would not offer me any resources except as required by law.

5. I then contacted the party steering committee. The first question they asked me was "How much money do you have?" They then informed me that I needed to have at least $1 million in the bank – but really more like $2 or $3 million – by May 31st in order to be considered by the Democratic party as a viable candidate to oppose Sen. Warner. If I was unable or unwilling to raise this money, I would be denied the party nomination.

6. I presented the filing fee and statement of candidacy for the office with the Party's Congressional District 8 Office as required by the Party's call for candidates. My timely and notarized filing document and cashier's check filing fee were refused by the 8th District.

7. I subsequently met with the Chairman of the party in Richmond to discuss my interest in running against Senator Warner and also protested District 8's refusal to accept my timely filing fee or my notarized filing document. The Chairman of the Central Committee in the presence of the Executive Director refused to accept the filing and confirmed the Steering Committee member's guidance that if I were to receive the Democratic Party's nomination for US Senate I would have to raise $1 million by May 31, 2002.

8. In response to this directive, I sent out between one and two thousand fundraising letters to my family and friends, most of whom are public servants and reservists. I received contributions and pledges of contributions from Virginia, the District of Columbia, Tennessee, Oklahoma, Arizona, Pennsylvania, Louisiana, California, Georgia and Arkansas; yet, I fell well short of the $1 million target and was not able to secure the party nomination. My average contribution was approximately $200.

My pledges were contingent upon my receiving the party's nomination.

9. Senator Warner, by contrast, has raised over $3.5 million for his re-election campaign. He has garnered over $1.3 million in $1,000 contributions alone. This prodigious fundraising has not only virtually assured that he will win re-election in 2002; it has led Democrats to forgo nominating a challenger. My campaign will be immeasurably more difficult as a write-in candidate than it would have been as a nominated Democratic challenger with the resources and appeal of the party behind me.

10. Based upon my experience as a candidate for U.S. Senate, I believe that the increased individual contribution limits enacted in the Bipartisan Campaign Finance Reform Act of 2002 will make it more difficult for those without wealth or access to wealth to mount a viable campaign for office. If the new, higher, limits had been in place for this election cycle, Sen. Warner would likely have raised even more money. His 1,314 $1,000 donors would have been able to double their contributions. The price of entry for the Democratic nomination – set by the party steering committee at $1 million – would likely have gone up as well. Given that most of my contributors could not afford to give at the current $1,000 limit, the increased caps would not have benefited my candidacy. Not only would the increased limits have hurt my ability to compete as a write in candidate, but they would have put me even farther away from earning the Democratic nomination.

11. I believe that the increased contribution limits will increase the influence of the largest campaign donors to such an extent that those like myself

who lack monetary wealth, or access to monetary wealth, will be unable to exercise our constitutionally protected right to equal participation in the political process.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 30th day of September 2002.

/s/ G. Gail Crook
Gail Crook

Exhibit 21

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et. al.*, *Plaintiffs,* -vs- THE FEDERAL ELECTION COMMISSION *et al.*, *Defendants.*	Civil Action No. 02-cv-877-KLH-CKK-RJL *consolidated with* 02-cv-582-KLH-CKK-RJL **(lead case)** *and* 02-cv-581-KLH-CKK-RJL 02-cv-633-KLH-CKK-RJL 02-cv-751-KLH-CKK-RJL 02-cv-753-KLH-CKK-RJL 02-cv-754-KLH-CKK-RJL 02-cv-781-KLH-CKK-RJL 02-cv-874-KLH-CKK-RJL 02-cv-875-KLH-CKK-RJL **02-cv-881-KLH-CKK-RJL**

Declaration of Victor Morales

I, Victor Morales, declare as follows:

1. I have been a member of Crandall city council and a teacher for 20 years.

2. I ran for the position of U.S. Senator from Texas in 1996. I secured the Democratic nomination and received 44% of the vote in the general election against incumbent Phil Gramm, in spite being significantly outspent. I raised approximately $900,000 in the last four months of this campaign. Overall, approximately 87% of the funds I raised came in contributions less than $100.

3. In 1998, I ran against incumbent Congressman Pete Sessions in Texas's fifth congressional district. In spite of being outspent about $1 million to about $800,000, I again received 44% of the vote.

4. I ran in 2002 against Dallas Mayor Ron Kirk in the U.S. Senate Democratic primary. In spite of being outspent by more than $1 million I forced a runoff, which I lost – after again being badly outspent – 59-41.

5. Based upon my experience as a candidate for Senator and Representative in the U.S. Congress, I believe that the increased individual contribution limits enacted in the Bipartisan Campaign Finance Reform Act of 2002 (BCRA) will make it more difficult for those without wealth or access to wealth to mount a viable campaign for federal office. Furthermore, the higher contribution limits will increase the influence of the largest campaign donors to such an extent that those who lack wealth, or access to wealth, will be unable to exercise their constitutionally protected right to equal participation in the political process.

6. When I first decided to run for office, I knew that money would be the biggest factor. The first state representative that I contacted regarding my campaign made this very clear. His first question was "how much money do you have; how much money can you raise." He didn't ask about my experience or how I stood on the issues, etc. In fact, most of the status quo politicians wouldn't even return my calls because I wasn't perceived as a big money candidate.

7. I believe that money was a deciding factor in each of my losses. I traveled around the state of Texas in a pickup truck and ran a grassroots campaign.

My dedication and articulation of ideas that appealed to average Texans allowed me to remain competitive despite a huge financial disadvantage. However, in the end, Senator Gramm's, Representative Session's, and Ron Kirk's warchests were simply too much to overcome.

8. My opponents' huge fundraising advantage allowed them to boost their already sizable name recognition, communicate a clear message, and drown out my attempts to communicate with the public. For my Senate race, the money comes in because obviously you can't meet 3 million people. One commercial in Texas costs $600,000. Papers don't take you seriously unless you have money. You also need the money for signs, bumper stickers, phone calls, all the basics. My campaign used no consultants, no machinery. The reaction I got was "Who does he think he is – a schoolteacher running for office.

9. My opponents each funded their campaigns through contributions from special interests and wealthy individuals. Mr. Kirk raised more than $1.8 million through contributions of $1,000 or more for the 2002 Senate race.

10. I ran my campaigns by driving a pickup truck throughout the state and appealing to average Texans. My campaign and my fundraising were geared towards lower and middle income families. At the beginning, I would simply ask folks to contribute $15 to fill my truck with gas. For the 2002 campaign, I received only $12,000 in contributions at or above $1,000.

11. Because many of my opponents' campaign contributions came at the existing limit, it is reasonable to assume that the increased contribution limits

enacted as part of BCRA – had they been in effect for my races – would have enabled my opponents to significantly increase their fundraising. Because few of my contributors could afford to contribute even the current limit, the increased limits would not have had a significant impact on my fundraising ability.

12. Therefore, I assert that I would have been less competitive in each of my campaigns had the increased limits been in effect. BCRA has made it more difficult for grassroots candidates who raise money from average citizens to mount effective campaigns for office.

13. I also believe that the increased contribution limits will further alienate my supporters, specifically those that contribute in small amounts. During my 1996 campaign, I ran into two of my former students walking out of the post office. They said "Mr. Morales, we're so proud of you. When we see you on TV, we say – that's our government teacher. We were going to send you $25 each, but we didn't because we thought "what's $25, he needs millions." The big money system has already alienated people like my former students; and the contribution limit increases will only make this worse.

14. Fundraising concerns generally – and the increases in federal contribution limits contained in BCRA specifically – will play an important role in my decision about whether to run for federal office in the future. The higher contribution limits will make it even more difficult for me to run a grassroots campaign geared towards average Texans and run competitively against a candidate who raises big money from wealthy individuals and special interests.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 3rd day of October, 2002.

/s/ Victor M. Morales
Victor Morales

Exhibit 22

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et al.*,	) Civil Action No.
Plaintiffs,	) 02-cv-877-KLH-CKK-RJL
-vs-	) *consolidated with*
THE FEDERAL ELECTION COMMISSION *et al.*,	) 02-cv-582-KLH-CKK-RJL
Defendants.	) **(lead case)**
	) *and*
	) 02-cv-581-KLH-CKK-RJL
	) 02-cv-633-KLH-CKK-RJL
	) 02-cv-751-KLH-CKK-RJL
	) 02-cv-753-KLH-CKK-RJL
	) 02-cv-754-KLH-CKK-RJL
	) 02-cv-781-KLH-CKK-RJL
	) 02-cv-874-KLH-CKK-RJL
	) 02-cv-875-KLH-CKK-RJL
	) 02-cv-881-KLH-CKK-RJL

Declaration of Cynthia Brown

I, Cynthia Brown, declare as follows:

1. I am a registered and qualified voter in Durham, North Carolina.

2. For the past twenty years, I have worked with grassroots communities to advocate for the rights of poor and modest income people. From 1995 to 1999, I served on the Durham City Council where I fought to expand the living wage, strengthen the housing code, protect workers on the job, and promote economic development in poorer communities. I have also worked as the executive director for Southerners for Economic Justice based in Durham

and in several staff positions, including interim director, for the Southeast Women's Employment Coalition based in Lexington, Kentucky. I have served as the director of a shelter for battered women and as the North Carolina representative for the National Coalition Against Domestic Violence.

3. I ran as a candidate for the United States Senate from North Carolina in the 2002 Democratic primary. I ran in that primary because I believe that people most affected by public policy should have a say and that public policy should be based on human need, not corporate greed.

4. I worked hard to raise money for my campaign and I raised approximately $50,000. Most of my contributions averaged around twenty-five dollars. I collected only a few $1,000 contributions for my campaign. My base of support consisted of working class people, people of moderate and low income.

5. One of my opponents in the Democratic primary was a millionaire and contributed enormous sums of money to his own campaign while raising large sums of money from wealthy contributors around the country. Another opponent also raised large sums of money from wealth contributors.

6. I found that, in spite of the money barrier I faced in this election, I could compete effectively, but I could not win without the money. Erskine Bowles, the millionaire candidate, won the primary.

7. I would consider running again for the U.S. Senate, but the increases in the hard money contribution

limits in the Bipartisan Campaign Reform Act will seriously discourage me from participating as a candidate.

8. If I were to run for the U.S. Senate again from North Carolina, I would likely face again a millionaire opponent. Under the increases in the hard money contribution limits, my other opponents would be free to raise up to $12,000 per individual per election. The people I know can hardly afford to contribute twenty-five dollars, let alone $12,000. There is no way that any candidate like me can compete under these new conditions.

9. These increases in the hard money contribution limits would effectively eliminate any future campaign I might hope to wage for the U.S. Senate.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 4 day of October, 2002.

/s/ Cynthia Brown
Cynthia Brown

Exhibit 23

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et al.*,	) Civil Action No.
Plaintiffs,	) 02-cv-877-KLH-CKK-RJL
-vs-	) *consolidated with*
THE FEDERAL ELECTION COMMISSION *et al.*,	) 02-cv-582-KLH-CKK-RJL
Defendants.	) **(lead case)**
	) *and*
	) 02-cv-581-KLH-CKK-RJL
	) 02-cv-633-KLH-CKK-RJL
	) 02-cv-751-KLH-CKK-RJL
	) 02-cv-753-KLH-CKK-RJL
	) 02-cv-754-KLH-CKK-RJL
	) 02-cv-781-KLH-CKK-RJL
	) 02-cv-874-KLH-CKK-RJL
	) 02-cv-875-KLH-CKK-RJL
	) 02-cv-881-KLH-CKK-RJL

Declaration of Ted Glick

I, Ted Glick, declare as follows:

1. I am a registered and qualified voter in Bloomfield, New Jersey.

2. I am running as the Green Party candidate for the United States Senate from New Jersey in the 2002 general election. I am running for the United States Senate because I believe in building alternatives to the Democratic and Republican parties. I decided to run to provide a different voice in this Senate election in the face of what has been happening in this country since the September 11 terrorist attack. I am running on a platform that

challenges the shifting of our national budget priorities to the Pentagon and the top wealthy one percent of the population at the expense of basic human needs, such as health care, housing, and education. I do not believe that our government's sharply increased militarism will bring us a safer world or will bring us closer to social and economic justice for all. I am deeply concerned that we protect our civil rights and liberties as we take steps to provide security.

3. In addition to running for the U.S. Senate, I am employed as the national coordinator for the Independent Progressive Politics Network, an organization which I cofounded. The Independent Progressive Politics Network is a national third party network made up of fifty organizations with the aim of building an alternative voice in American politics to the two major parties. I have served as the network's national coordinator for the past seven years.

4. I have worked hard to raise money for my campaign, but I do not have access to wealthy circles. I have raised approximately $25,000. The average donation to my campaign is approximately fifty dollars. I have received only two donations at the $1,000 level. I have had to scramble for resources in order to get my message out and to reach the voters.

5. By contrast, my Democratic and Republican opponents have extremely well-funded campaigns. My Republican opponent, Douglas R. Forrester, has contributed millions of dollars of his own money to his campaign. My prior Democratic opponent, Senator Robert G. Torricelli, had raised millions of dollars from wealthy contributors across the country. My new Democratic opponent, former

Senator Frank R. Lautenberg, is, like Mr. Forrester, a multimillionaire, and Democratic Party leaders are currently seeking to make the millions of dollars Senator Torricelli raised available to support Mr. Lautenberg's new candidacy.

6. If I do not win this Senate race, I would consider running for the U.S. Senate in a future election, but the increases in the hard money contribution limits of the Bipartisan Campaign Reform Act would seriously discourage me from doing so. Those increases would create an extremely uneven playing field and would prevent me from effectively competing for the office. If I were to run again in a race with similar circumstances, I would be facing not only a self-funded candidate but another candidate able to raise up to $12,000 per individual per election or $24,000 per individual per election cycle. It is impossible to participate facing that tremendous disparity in resources. I just do not run in the circles of people who can contribute $12,000.

7. I realize some of the proponents of these hard money limit increases have tried to argue that a candidacy like mine might be helped, suggesting that in this new scenario I could raise larger sums from a few supporters. I draw the analogy of a sporting event where one team has twenty players and the other team has three players. The suggestion that I could raise more money under these increased limits is like saying that the team with the three players can just play harder to compete against the team with the twenty players. This argument does not reflect the real world in which candidates like me do not have access to wealthy contributors.

8. These increased hard money contribution limits will have the effect of drowning out my voice in any future candidacy for the U.S. Senate and the voices of my voter-supporters. They will prevent me from participating in the electoral process on an equal basis.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This ___ day of October, 2002.

/s/ Ted Glick
Ted Glick

Exhibit 24

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et al.*,	) Civil Action No. 02-cv-877-KLH-CKK-RJL
Plaintiffs,	) *consolidated with* 02-cv-582-KLH-CKK-RJL **(lead case)**
-vs-	
THE FEDERAL ELECTION COMMISSION *et al.*,	) *and* 02-cv-581-KLH-CKK-RJL
Defendants.	) 02-cv-633-KLH-CKK-RJL
	) 02-cv-751-KLH-CKK-RJL
	) 02-cv-753-KLH-CKK-RJL
	) 02-cv-754-KLH-CKK-RJL
	) 02-cv-781-KLH-CKK-RJL
	) 02-cv-874-KLH-CKK-RJL
	) 02-cv-875-KLH-CKK-RJL
	) 02-cv-881-KLH-CKK-RJL
	)

Declaration of Victoria Jackson Gray Adams

I, Victoria Jackson Gray Adams, declare as follows:

1. I have been an active advocate for voting rights for over forty years. During the 1960s, I was a State Supervisor of Citizenship Education of the Southern Christian Leadership Conference in Mississippi and a founder of the Mississippi Freedom Democratic Party, which challenged the seating of Mississippi's all-White delegation to the 1964 Democratic Party's national convention. I currently serve as a member of the Board of Directors of the Fannie Lou Hamer Project, which advocates for equal voting rights regardless of economic status.

2. I am a registered and qualified voter in Petersburg, Virginia. I have voted regularly, and believe that the failure to vote would betray the many people who lost their lives in the voting rights struggle. I also contribute what money I can to candidates who stand for equality, although I am only able to make small contributions.

3. As hard as I have fought for voting rights, I believe that the right to vote is useless if the only people who can qualify for office don't have a clue as to the needs and aspirations of the average citizen. The increased contribution limits of the Bipartisan Campaign Reform Act of 2002 (BCRA) will mean that candidates who do not have personal wealth, or connections to people with wealth, will be at such a great disadvantage that many will not run for office. Candidates who represent my interests, and the interests of non-wealthy communities, will be blocked from office. This will deprive me of full political participation and discourage me from involvement with electoral politics.

4. I cannot afford to contribute anywhere near $2,000 to a candidate, and if the individual contribution limits are raised to $2,000, I will be discouraged from giving any money at all. Candidates will be forced to gather as many $2,000 contributions as they can, dwarfing the kind of contribution I could afford to give.

5. If candidates are forced to seek $2,000 contributions in order to be competitive, those who cannot afford such contributions will have less of an opportunity to be heard on policy matters. The largest donors get more attention, and when the ceiling is raised the voices of small contributors and voters like myself will be lost.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 7th day of October, 2002.

/s/ Victoria Jackson Gray Adams
Victoria Jackson Gray Adams

Exhibit 25

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et. al.*, *Plaintiffs,* -vs- THE FEDERAL ELECTION COMMISSION *et al.*, *Defendants.*	Civil Action No. 02-cv-877-KLH-CKK-RJL *consolidated with* 02-cv-582-KLH-CKK-RJL **(lead case)** *and* 02-cv-581-KLH-CKK-RJL 02-cv-633-KLH-CKK-RJL 02-cv-751-KLH-CKK-RJL 02-cv-753-KLH-CKK-RJL 02-cv-754-KLH-CKK-RJL 02-cv-781-KLH-CKK-RJL 02-cv-874-KLH-CKK-RJL 02-cv-875-KLH-CKK-RJL 02-cv-881-KLH-CKK-RJL

Declaration of Carrie Bolton

I, Carrie Bolton, declare as follows:

1. I am a registered and qualified voter in Pittsboro, North Carolina.

2. For the past eleven years, I have served as the pastor of the Alston Chapel United Holy Church, Inc., located in Pittsboro. I serve a 200-member congregation of predominantly African-American working class citizens.

3. I also serve on a part-time basis as the field director for Democracy South based in Carrboro, North Carolina. Democracy South, of which I am a founding

member, is a non-profit, non-partisan organization advocating for progressive change in the Southeast region of the United States in key areas of concern to ordinary citizens, including electoral and campaign finance reform, environmental justice, and economic justice.

4. I am also a founding member and current board chair of the Fannie Lou Hamer Project, a national grassroots organization dedicated to redefining campaign finance as a civil rights issue. The Fannie Lou Hamer Project, named after a legendary civil rights worker from Mississippi, advocates for equal participation of all citizens in the political process, regardless of economic status.

5. I have voted in every single election at the local, state, and federal level since I turned 18. I remember clearly the day my father was denied the right to vote more than four decades ago because he had difficulty writing his name. I knew then at the age of 12 the importance of my right to vote.

6. I am rarely able to make campaign contributions to candidates of my choice. The largest contribution I have ever made was for fifty dollars to a candidate running for county commissioner. I am a single parent with two daughters and living on a modest income. I do not have the economic base that allows me to make large contributions to candidates.

7. I voted for Cynthia Brown in the 2002 Democratic Party primary election for the United States Senate from North Carolina. I supported Cynthia Brown because she was the candidate who more often had lived, worked, and walked among the people in the community and the surrounding counties. She has a record of speaking out on issues affecting poor and working class people, including

the living wage, environmental justice as a civil rights issue, education, health care, and equality in the political process for all people, no matter what their income may be. Cynthia Brown stood up for all of those things I live with on a daily basis as a pastor and as an individual citizen.

8. I volunteered for Cynthia Brown's campaign, putting up yard signs, making telephone calls, and reaching out to other voters. While I could not afford to make a financial contribution during this race, I tried to talk with others I knew who might be able to contribute. I raised money from about five of my friends, none of whom could give a contribution greater than $100. Many others I knew who supported Cynthia Brown could not give any money at all.

9. Cynthia Brown faced a millionaire opponent who contributed an enormous amount of his own money to his campaign while, at the same time, raising large sums of money from wealthy contributors around the country. She faced another opponent who also raised large sums of money from wealthy contributors.

10. I understand that if Cynthia Brown were to run again for the U.S. Senate facing the same circumstances, the increases in the hard money contribution limits of the Bipartisan Campaign Reform Act would allow wealthy individuals to give up to $12,000 each, a twelve-fold increase over what they were allowed to give in the 2002 primary election.

11. Under those increases, I would not even get on the scale with those making significant contributions. Cynthia Brown is like most of us. She is not connected to people who have that kind of money. I could put up all the

signs I wanted in that kind of future race, but I would never be able to get my voice heard. It would be like fighting a fire with a cup of water.

12. The increases in the hard money contribution limits make it no longer conceivable that I can access the political process. They undermine the meaning and value of my vote.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 3rd day of October, 2002.

/s/ Carrie Bolton
Carrie Bolton

Exhibit 26

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et. al.*,	Civil Action No. 02-cv-877-KLH-CKK-RJL
Plaintiffs,	*consolidated with* 02-cv-582-KLH-CKK-RJL **(lead case)**
-vs-	
THE FEDERAL ELECTION COMMISSION *et al.*,	*and* 02-cv-581-KLH-CKK-RJL 02-cv-633-KLH-CKK-RJL 02-cv-751-KLH-CKK-RJL 02-cv-753-KLH-CKK-RJL 02-cv-754-KLH-CKK-RJL 02-cv-781-KLH-CKK-RJL 02-cv-874-KLH-CKK-RJL 02-cv-875-KLH-CKK-RJL 02-cv-881-KLH-CKK-RJL
Defendants.	

DECLARATION OF DARYL IRLAND

I, Daryl Irland, declare as follows:

1. I am a twenty-year-old politically active college student. I attend school at Collin County Community College in Plano, Texas. I have voted in several local, state, and federal elections since turning of age.

2. I was recently involved in a campaign for U.S. House of Representatives, supporting Tom Caiazzo against Sam Johnson in Texas' third district Republican primary.

3. We ran a grassroots campaign chiefly supported by college students and other young people. My primary role in the campaign was to canvas district three voters. This included planning neighborhood campaign routs and soliciting votes. In addition I was involved in coordinating several campaign events to stimulate voter interest.

4. Most of Dr. Caiazzo's supporters – including myself – could not afford to contribute $1,000 to the campaign, so we gladly donated our time instead. When we reached out to voters and potential volunteers, we asked them to contribute small sums of money and to volunteer for the campaign.

5. Our opponent, on the other hand, was able to raise large sums for money from many wealthy contributors. The result was that Mr. Johnson's campaign took in approximately 40 times more money than ours.

6. This fundraising deficit proved to be a hurdle we could not overcome. Our opponents' huge financial advantage severely impaired our chances of being successful. Money does not guarantee success but certainly creates the appearance of credibility. Not only did his financial edge allow Mr. Johnson to overwhelm our message with paid mailings and advertisements, but the media also treated fundraising as an appropriate measure of candidate viability, not treating our candidacy seriously. Ultimately, this helped to create a self-fulfilling prophesy: Mr. Johnson was able to win easily in part because the media (and therefore the public) believed he would win easily.

7. Based upon my experience as a volunteer on a congressional campaign, I believe that raising the

individual contribution limit to two thousand dollars will only serve to widen the gap between the incumbent and the first time candidate. This belief is confirmed by U.S. PIRG's new report *Contribution Limits and Competitiveness*, which demonstrates that higher contribution limits (or none) lead to greater margins of victory for incumbents.

8. Increasing the individual contribution limits will also further limit the options of the voter and discourage young voters such as myself from being involved in the political system. The process of a political campaign is both fascinating and eye opening. I would not trade that year of my life for anything, but I doubt that I would invest the time again knowing now that money alone can decide elections.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 30th day of September 2002.

/s/ Daryl Irland
Daryl Irland

Exhibit 27

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et. al.*, *Plaintiffs,* -vs- THE FEDERAL ELECTION COMMISSION *et al.*, *Defendants.*	Civil Action No. 02-cv-877-KLH-CKK-RJL *consolidated with* 02-cv-582-KLH-CKK-RJL (lead case) *and* 02-cv-581-KLH-CKK-RJL 02-cv-633-KLH-CKK-RJL 02-cv-751-KLH-CKK-RJL 02-cv-753-KLH-CKK-RJL 02-cv-754-KLH-CKK-RJL 02-cv-781-KLH-CKK-RJL 02-cv-874-KLH-CKK-RJL 02-cv-875-KLH-CKK-RJL 02-cv-881-KLH-CKK-RJL

DECLARATION OF ANURADHA JOSHI

1. My name is Anuradha Joshi. I am a registered voter in Berkeley, California. I am a college student and am co-Chapter Chair of the California Student Public Interest Research Group, CALPIRG. For the past three years I have participated in the Youth Vote project, working to increase voter participation among young people.

2. I have voted in two elections, including the November 2000 presidential and congressional elections. I will continue to vote after the increase in federal hard money contribution limits goes into effect, however I believe that my vote will matter less. I believe that money pretty much controls

elections and that I will be less important to a candidate than someone who can give $2000 because they will have greater influence in helping to elect that candidate.

3. I have never donated to a federal candidate for office. This is partially because there have not been candidates in my district that I believed strongly in, and partly because the amount that I could afford to give wouldn't be competitive with what others could give. I feel that making contributions at the level I can afford would almost be pointless. This will become even more the case after contribution limits increase, so I am less likely to contribute in the future.

4. In the 2000 election cycle, I personally registered many students to vote. Working with others in my organization, we registered about 7,000 students to vote. This year, our goal is to register 10,000 students to vote and to increase youth turnout by 3%. I definitely believe that the increase in contribution limits will make it harder to register students to vote in future election cycles. Already, many students tell me that voting is not an effective tool to influence democracy or politics. They believe that elections are controlled by corporations and special interests. These students are not apathetic. They get involved in CALPIRG's community service projects and volunteer many hours. But they almost feel like they are taking a stand by not voting, taking a stand against the corruption that has penetrated the voting process. Knowing how hard it is already to get students involved in the political process, I believe it will become even more difficult once contribution limits increase and large donors play an even greater role in determining election outcomes.

5. As co-chapter chair, I am responsible for recruiting students to join the CALPIRG chapter. I believe that as a result of the contribution limit increases, we will recruit as many students as we do now, but they will be more attracted to our service projects than ones that involved public policy. I know that for me personally, it will make our case seem more hopeless once you realize that wealthy people will have greater opportunity to control politicians by making larger contributions to them. This will make it harder for us to have an effective political association.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: 10/2/02

/s/ Anuradha Joshi
Anuradha Joshi

Exhibit 28

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et al.*,	) Civil Action No.
Plaintiffs,	) 02-cv-877-KLH-CKK-RJL
-vs-	) *consolidated with*
THE FEDERAL ELECTION COMMISSION *et al.*,	) 02-cv-582-KLH-CKK-RJL
Defendants.	) **(lead case)**
	) *and*
	) 02-cv-581-KLH-CKK-RJL
	) 02-cv-633-KLH-CKK-RJL
	) 02-cv-751-KLH-CKK-RJL
	) 02-cv-753-KLH-CKK-RJL
	) 02-cv-754-KLH-CKK-RJL
	) 02-cv-781-KLH-CKK-RJL
	) 02-cv-874-KLH-CKK-RJL
	) 02-cv-875-KLH-CKK-RJL
	) 02-cv-881-KLH-CKK-RJL

Declaration of Howard Lipoff

I, Howard Lipoff, declare as follows:

1. I am a registered and qualified voter in Little Falls, New Jersey.

2. I work as a special education teacher at Fort Lee High School in Fort Lee, New Jersey, a position I have held for the past five years. I have worked as a public school teacher since 1991.

3. I have volunteered in a number of political campaigns at the local, state, and federal level. I currently serve as the Passaic County coordinator for the Green Party of New Jersey.

4. I do that volunteer work because I believe that it is important that people get involved in the political process. The Green Party is not a corporate party and it allows an individual like myself to be involved in a meaningful way. The Passaic County chapter of the party collects small dues of twenty dollars each from its members every year and it does not solicit big money. We do not want big corporate influence in our party.

5. I am a supporter of Green Party candidate Ted Glick who is running for the U.S. Senate from New Jersey in the 2002 general election. I have contributed seventy-five dollars to his campaign, the largest campaign contribution I have ever made.

6. I am limited in what I can afford to contribute to a political campaign. I make a modest salary as a public school teacher and cannot write large checks to the candidates of my choice.

7. The increases in the hard money contribution limits of the Bipartisan Campaign Reform Act will discourage me from participating in the political process. The idea that other people can have more say in the political process than I do simply because they earn or have more money is very undemocratic. I cannot make a contribution anywhere near the $12,000 allowed per individual in a race involving a self-funded candidate, such as the 2002 U.S. Senate race in New Jersey. Only rich people are able to afford to contribute that kind of money. These increases will allow the rich person to have more influence in elections and will drown out my voice.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 3 day of October, 2002.

/s/ Howard Lipoff
Howard Lipoff

Exhibit 29

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et al.*,	) Civil Action No. 02-cv-877-KLH-CKK-RJL
Plaintiffs,	) *consolidated with* 02-cv-582-KLH-CKK-RJL
-vs-	) **(lead case)**
THE FEDERAL ELECTION COMMISSION *et al.*,	) *and*
Defendants.	) 02-cv-581-KLH-CKK-RJL) 02-cv-633-KLH-CKK-RJL) 02-cv-751-KLH-CKK-RJL) 02-cv-753-KLH-CKK-RJL) 02-cv-754-KLH-CKK-RJL) 02-cv-781-KLH-CKK-RJL) 02-cv-874-KLH-CKK-RJL) 02-cv-875-KLH-CKK-RJL) 02-cv-881-KLH-CKK-RJL

Declaration of Nancy Russell

I, Nancy Russell, declare as follows:

1. I am a registered and qualified voter in Yardley Pennsylvania.

2. I reside in the same Congressional district as former Member of the U.S. House of Representatives, Peter Kostmayer. I supported him in his campaigns from 1982 to 2000 and intend to support Mr. Kostmayer's candidacy for federal or state office.

3. I do not have the ability to contribute an amount of money anywhere near $2000.

4. I have not traditionally supported candidates who represent the interests of wealthy individuals and do not intend to support such candidates. I support candidates whose platforms address the needs of non-affluent and ordinary voters. Mr. Kostmayer is one example of this type of candidate.

5. The increased contribution limits of the recently-passed Bipartisan Campaign Reform Act tilt the scales of democracy against average voters like me. Because I, and others like me, cannot contribute large amounts of money to a campaign, very few candidates will pay attention to our concerns.

6. The increased contribution limits of the recently-passed Bipartisan Campaign Reform Act will also hinder or prevent Mr. Kostmayer, a candidate who does listen to and represent the interests of non-affluent communities and average voters like me, from mounting a successful campaign. Because of the resultant large difference in fund-raising between Mr. Kostmayer and any potential opponent, he will be less able to get his message out than his adversaries.

7. Because most candidates will not pay attention to me, and candidates who do pay attention to my concerns will be at a competitive disadvantage, my right to equal participation in the political process will be undermined once the new law goes into effect.

8. In addition, I have done a significant amount of voter registration work in blue-collar and lower-income areas. As money has played a larger role in political campaigns over the years, I have been able to generate less and less interest in voting. I have I [sic] increasingly encountered people who express their feelings of extreme

disenfranchisement – that their votes don't matter compared to the votes and contributions made by wealthy interests.

9. The increased contribution limits of the recently-passed Bipartisan Campaign Reform Act will exacerbate the advantage of wealthy donors in getting representation in Congress to such an extent that many people in non-affluent communities will simply opt out of any political participation, including voting.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 2 day of October, 2002.

/s/ Nancy Russell
Nancy Russell

Exhibit 30

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et al.*, *Plaintiffs,* -vs- THE FEDERAL ELECTION COMMISSION *et al.*, *Defendants.*	) Civil Action No.) 02-cv-877-KLH-CKK-RJL) *consolidated with*) 02-cv-582-KLH-CKK-RJL) **(lead case)**) *and*) 02-cv-581-KLH-CKK-RJL) 02-cv-633-KLH-CKK-RJL) 02-cv-751-KLH-CKK-RJL) 02-cv-753-KLH-CKK-RJL) 02-cv-754-KLH-CKK-RJL) 02-cv-781-KLH-CKK-RJL) 02-cv-874-KLH-CKK-RJL) 02-cv-875-KLH-CKK-RJL) 02-cv-881-KLH-CKK-RJL

Declaration of Chris Saffert

I, Chris Saffert, declare as follows:

1. For three years, ending September 30, 2002, I was the Legislative Director of ACORN (Associati n of Community Organizations for Reform Now). As of October 1, 2002, I have been the Deputy Director of ACORN's Financial Justice Center.

2. ACORN is the nation's largest community organization of low and moderate-income families, with over 120,000 member families organized into 600 neighborhood chapters in 45 cities across the country. ACORN is dedicated to organizing the poor and powerless to fight the exclusion

of the concerns of low and moderate-income people from the nation's political agenda. ACORN's priorities include better housing for first time homebuyers and tenants, living wages for low-wage workers, more investment in low and moderate-income communities from banks and governments, and better public schools. ACORN works toward these goals by building community organizations that engage in direct action, negotiation, lobbying for legislation, and voter participation.

3. As ACORN's Legislative Director, my responsibilities included lobbying of the federal government – focusing primarily on banking and housing – and staying abreast of federal legislative and regulatory developments that would affect ACORN's members and local issue campaigns. I kept our local offices updated about such developments. My lobbying duties included a couple hundred meetings every year with Congressional staff, phone calls, and preparing materials and/or comments for different federal regulatory proposals.

4. As the representative of a membership organization of low and moderate income voters, who cannot make large contributions to elected officials, I have had significantly less access to elected officials than advocates who represent the interests of voters who are able to (and do) contribute large sums of money to candidates' campaigns.

5. For example, I was actively involved in lobbying against the passage of the Financial Services Modernization Act ("FSMA"), also known as the Gramm-Leach-Bliley Act of 1999, from March 1999 until the law's passage in November 1999, because of its harm to low-income and minority communities. By repealing the Glass-Steagall

Act, which prohibited insurance companies from conducting banking business and the banking industry from getting involved in insurance, and making other changes, the Act allowed the financial services industry to become more concentrated. Even without such concentration, few banks have been living up to their responsibility to provide access to financial services in poor and minority communities. With the increasing concentration allowed by the FSMA, the new conglomerates that have already been, and likely will continue to be formed will likely make fewer loans and services available in underserved communities and be even less responsive to the needs of those communities.

6. In addition, as part of the FSMA, Senator Gramm sought to eliminate or at least significantly roll back the Community Reinvestment Act, a law that is designed to address redlining by banks in poor and minority communities. The elimination of the CRA would severely hamper the ability of citizens in poor and minority neighborhoods to have fair access to quality financial services.

7. In my lobbying activities at the Senate in opposition to the FSMA, I was surprised at how few Senators would meet with me. Before working on behalf of ACORN, I had spent three years as a staffer on Capitol Hill (one year as a Legislative Correspondent and two years as a Legislative Assistant) and it was my experience that Members of Congress would often drop in on their staffer's meetings. From what I saw generally on the Hill, in order to determine whether and how much time the Member would spend with a visitor to the office, a judgment was usually made as to the importance of the visitor, including whether their name appeared on the contributor list. Although I do not represent a constituency that can make

substantial contributions, I believed that Members of Congress would make an effort to meet with me because of the importance of the concerns I was raising.

8. Although I met with staff from the offices of almost all Senate Democrats and many Senate Republicans, plus many Representatives, in my lobbying in opposition to FSMA, only very rarely did the Senators or Representatives stop by the meetings to hear our perspective on the FSMA. In conversations with another advocate who had been lobbying on the FSMA for several years before I became involved with the issue and had met with elected officials, on occasion he was told that the Congress Member would not devote any energy to supporting various amendments to improve the legislation – not on the merits of the issues but simply because the financial services (insurance, banking, and securities) industry would oppose such changes.

9. At one point, the dispute regarding the CRA held up agreement in the Conference Committee and therefore passage of the legislation. The rumor mill and subsequent news reports indicated that Sandy Weill, Citigroup's Chairman, broke the logjam with calls to the White House, then-Secretary of the Treasury Robert Rubin, and Senator Phil Gramm, among others, to urge FSMA's passage. The deal was reached shortly thereafter without elimination of CRA but with significant changes that were adverse to poor and minority communities.

10. In the last few months, I have lobbied against the Bankruptcy Bill, which has been passed out of a House-Senate Conference Committee. This bill harms low and moderate-income voters in a variety of ways.

11. To understand why the Bankruptcy Bill is so horrible for poor communities, it is necessary to understand why many individuals in these communities are forced to file for bankruptcy. In many poor and minority neighborhoods, predatory home loans are made in concentrated volumes and better loans are not readily available. The higher costs imposed by these loans, which often result from credit card debts being consolidated into mortgages, seriously weaken the borrowers' financial positions and undermine their ability to handle the three life events that cause 90% of bankruptcy filings – loss of job, divorce, or large medical bills. (Roughly speaking, predatory lending means imposing unfair and abusive loan terms on borrowers that strip away equity and greatly increase borrowers' costs, frequently through aggressive sales tactics and outright deception, often taking advantage of borrowers' lack of understanding of extremely complicated transactions.) Predatory loans turn the dream of homeownership into a nightmare, in the worst instances ending in foreclosure. Notwithstanding the dire financial situation faced by such individuals, nevertheless they typically still receive an unending stream of offers for credit cards or live checks in the mail, frequently from the same institution that provided the original unsecured debts and then pressured them to consolidate those debts into their mortgages. The legislation will strengthen lenders' sales pitch for consumers to consolidate credit card debt into mortgages – the most common scenario for predatory loans – and removes judges' ability in the bankruptcy process to address problems with predatory home loans, such as loans that have been inflated by huge finance fees and other add-ons above the house's value.

12. The Bankruptcy Bill makes bankruptcy more expensive by increasing the court filing costs and by allowing credit companies, for example, to lodge more legal challenges than they have been able to do until now. For many low and moderate-income individuals whose debt has spiraled out of control, this law will create an insurmountable financial barrier to gaining the protections of the bankruptcy laws.

13. The Bankruptcy Bill also prevents individuals who earn more than the median income in a specified geographic area from filing for bankruptcy under Chapter 7, which does not protect many assets from sale but which does eliminate unsecured debt like credit card debt, and forces such individuals to file for bankruptcy under Chapter 13, which protects more assets (depending on applicable state law) but does not allow the elimination of unsecured debt. That the law applies only to those who earn above the median income does not protect low and moderate-income communities because the median income is very low in many metro areas and most individuals just above the median income who are filing for bankruptcy will not have any assets to possibly be protected by Chapter 13.

14. In Pine Bluff, Arkansas, for example, I recently heard that the median income is around $19,000 per year. Under the Bankruptcy Bill, anyone who earns more than $19,000 in Pine Bluff will be unable to wipe out unsecured debt through the bankruptcy process and will therefore be denied access to the "fresh start" that bankruptcy laws are supposed to provide (even as a huge negative mark is left on the consumer's credit record).

15. Although the Bankruptcy Bill will have serious and severe consequences for low and moderate-income communities, effectively pushing individuals into a spiral of debt from which it will be nearly impossible to emerge – precisely what the bankruptcy laws are supposed to prevent – the bill nevertheless provides protection of the assets of affluent individuals who declare bankruptcy. The bill, for example, preserves the Homestead Exemption, which allows residents of several states who declare bankruptcy to protect their homes from seizure. This benefits mainly the very wealthy, who can shelter their luxury homes from seizure while those who rent would lose everything.

16. As with my lobbying against the FSMA, I have made many lobby visits to the offices of Members of Congress but only rarely have I been allowed to meet with the particular elected officials rather than with staff exclusively. I understand that many of the industry advocates in favor of the Bankruptcy Bill have been able to meet directly with Senators and Representatives. I know from my prior experience on Capitol Hill that most Members spend one to two hours every day calling their hard money contributors, including those in the credit card industry who have been pushing for this legislation.

17. ACORN's membership cannot afford to make large hard money contributions to candidates for office.

18. The increase in the hard money limits in BCRA will further reduce the access of low and moderate-income people, and their representatives, to Members of Congress to the point that the Members become even less accessible and less responsive to the needs of low-income communities. The effect of the contribution limit increases will be to

drown out the voices of people from low and moderate-income communities, which already too often go unheard, on issues that directly affect their families and neighborhoods.

19. Because the effect of the hard money increases will be to drown out the voices of low and moderate-income people, their interests will be represented in candidates' platforms less frequently and neglected even more often as legislation and regulations move through Congress and the Administration.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 3rd day of October, 2002.

/s/ Chris Saffert
Chris Saffert

Exhibit 31

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et. al.*,	) Civil Action No. 02-cv-877-KLH-CKK-RJL
	) *consolidated with*
Plaintiffs,	) 02-cv-582-KLH-CKK-RJL (lead case)
-vs-	) *and*
	) 02-cv-581-KLH-CKK-RJL
	) 02-cv-633-KLH-CKK-RJL
THE FEDERAL ELECTION COMMISSION *et al.*,	) 02-cv-751-KLH-CKK-RJL
	) 02-cv-753-KLH-CKK-RJL
	) 02-cv-754-KLH-CKK-RJL
	) 02-cv-781-KLH-CKK-RJL
Defendants.	) 02-cv-874-KLH-CKK-RJL
	) 02-cv-875-KLH-CKK-RJL
	) 02-cv-881-KLH-CKK-RJL

DECLARATION OF KATE SEELY-KIRK

1. My name is Kate Seely-Kirk. I am a registered voter and voted in the recent congressional primaries. I am the co-chapter Chair of the California Student Public Interest Research Group, CALPIRG, at UC Berkeley.

2. The maximum that I could afford to give a candidate would be $50-$100. I work at a minimum wage job, and it would take me about 10 hours of work to earn $50. The increase in federal contribution limits as part of the Bipartisan Campaign Reform Act (BCRA) makes me less likely to contribute to political campaigns in the future. When other people just have $2000 lying around that they could easily contribute

to a candidate under the new limits and I would have to work so hard just to contribute $50, that demonstrates to me that political contributions are not a a good way to show my level of support for a candidate. I might feel much more strongly in favor of a candidate than someone who can easily give $2000, but that wouldn't be at all reflected in the contributions. This discourages me and makes me feel that I might as well not give my $50 at all because it won't go as far under the new limits, and won't demonstrate my true level of support for candidates. This will become even worse when contribution limits increase.

3. I am also discouraged from making political contributions because I feel the passage of BCRA demonstrates that Congress is corrupt. They claimed that they were in favor of reform, but I believe that there will be loopholes to allow corporations and special interests like the mining industry, logging industry, and oil industry to continue giving soft money. And, with the increased contribution limits, wealthy individuals will be able to give twice as much. This is not campaign finance reform, and the fact that members of Congress claimed that it was disillusions me about the entire system. It seems really sneaky. The passage of the BCRA makes me feel like my voice is less likely to be heard and makes me less likely to want to contribute small amounts to federal candidates.

4. I am registered with the Green Party and believe that the increase in federal contribution limits will further increase the advantages of the two major parties over the candidates that I support. The increase in contribution limits will further encourage the two major parties to adopt positions that are supported by the mining, logging, and oil companies because executives in those companies will be able to give even more money. This will leave even less room for third party candidates that do not adopt positions that are supported by people

from these industries. I believe that the candidates I support would do better under lower contribution limits, and will be less likely to run competitive campaigns under the higher limits. So, I will be less able to vote for candidates who support my interests and opinions if contribution limits increase.

5. I am involved in the Youth Vote campaign to register students to vote. I find that students are already disillusioned with the voting process and often do not want to register to vote. I frequently find that only 2 students will register for every hour I spend at a registration table talking to students. When I ask if people are registered, they tell me, "Nope. It doesn't matter anyway." I definitely believe that the increase in contribution limits will increase the disillusionment among people my age and make them less likely to vote. It will make people feel like they have less of a voice.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: 10/2/02

/s/ Kate Seely-Kirk
Kate Seely-Kirk

Exhibit 32

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VICTORIA JACKSON GRAY ADAMS, *et. al.*,	Civil Action No. 02-cv-877-KLH-CKK-RJL
Plaintiffs,	*consolidated with* 02-cv-582-KLH-CKK-RJL **(lead case)**
-vs-	*and* 02-cv-581-KLH-CKK-RJL 02-cv-633-KLH-CKK-RJL
THE FEDERAL ELECTION COMMISSION *et al.*,	02-cv-751-KLH-CKK-RJL 02-cv-753-KLH-CKK-RJL 02-cv-754-KLH-CKK-RJL 02-cv-781-KLH-CKK-RJL
Defendants.	02-cv-874-KLH-CKK-RJL 02-cv-875-KLH-CKK-RJL 02-cv-881-KLH-CKK-RJL

Declaration of Stephanie L. Wilson

I, Stephanie L. Wilson, declare as follows:

1. I am a registered and qualified voter in Kalamazoo, Michigan.

2. I serve as the executive director of the Fannie Lou Hamer Project, a national grassroots organization dedicated to redefining campaign finance as a civil rights issue. The Fannie Lou Hamer Project, named after a legendary civil rights worker from Mississippi, advocates for equal participation of all citizens in the political process, regardless of economic status.

3. I have never missed an election since I turned 18. My mother always instilled in us the importance of our right to vote, and as part of our high school graduation packets, each of us received a voter registration card.

4. The only campaign contribution I have ever made was for fifteen dollars to a candidate running for state representative in Michigan. I have three children, ages thirteen, ten, and six. My fiancée and I live on a monthly budget based on one income and we focus solely on meeting our family's basic needs, such as food, clothes, shelter, lights, and gas. I cannot afford to make large contributions to candidates of my choice.

5. The increases in the hard money contribution limits of the Bipartisan Campaign Reform Act further moves me away from being able to participate in the political process. My fifteen dollars will definitely be no match for a wealthy person's contribution of $2,000. I'm getting less representation and less democracy under the current system. With these increases, I'm going to get no representation and no democracy.

6. As an African-American woman, I recognize that my community will be disproportionately harmed by these increases since we are disproportionately poorer. By and large, people of color are not the ones financing our elections today, and we are not the ones redeeming the rewards and benefits of representation in government. These increases will only further that disparity.

7. The increases in the hard money contribution limits will allow wealthy contributors to drown out my voice in the political process. The increases will prevent me from being able to participate in the electoral process on an equal basis.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 3rd day of October, 2002.

/s/ Stephanie Wilson
Stephanie Wilson

Exhibit 33

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

SENATOR MITCH McCONNELL, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civil Action No. 02-0582 (CKK, KLH, RJL) Consolidated Actions DECLARATION

DECLARATION OF SENATOR DALE BUMPERS

Background

1. My name is Dale Bumpers.

2. I served two terms as Governor of Arkansas, from 1971 to 1975. After my service as Governor, I served as a Member of the United States Senate, representing the state of Arkansas, from 1975 to 1999. After I retired from the Senate, I spent one year directing the Center for Defense Information, a nonprofit think-tank based in Washington, D.C. I have also taught classes at the University of Arkansas and other schools.

3. Currently, I practice law in Washington, D.C., at Arent Fox Kintner Plotkin & Kahn, PLLC, where I provide strategic counsel and advice to

corporations, trade associations, and nonprofit organizations on a broad range of international and government relations issues.

The Role of Political Parties

4. Political parties' primary interest is in supporting and electing their candidates. The parties are money raisers, and they spend the money they raise to assist their candidates in campaigns. Party committees focus their resources on competitive races. Unlike some other groups that are active in the political process, party committees keep information on the opposing party so they can tell their candidates about things like their opponents' legislative votes and public statements, and thereby help them win elections.

5. Political parties do not have economic interests beyond their broad view that the public generally prospers more as a result of the election of that party's candidates.

6. I have never been contacted by the party about any issue, and have never been lobbied by the party to take a certain position on an issue or matter before Congress. In my view, the party is not the leader on policy issues, and it is not very issue-oriented. It is the Members who provide leadership on policy issues, and the party is a follower that promotes those policies in order to elect its candidates. I am not aware that the party has any interest in the outcome of public policy debates that is separate from its interest in supporting and electing its candidates.

7. Parties expect Members to raise money for the party. At weekly caucus meetings, for example, party leaders pressured members to raise

funds. Party leaders would also recognize members who helped raise significant amounts of money. This money is normally raised from those who are involved in donating to Democratic or Republican causes in the home states of these Members.

Members of Congress and Soft Money Fundraising

8. In my experience, it is a common practice for Members of Congress to be involved in raising both hard and soft dollars for the national party committees, at the parties' request. I have raised hard money for the Democratic Senatorial Campaign Committee ("DSCC") and have attended any number of fundraising functions for both the Democratic National Committee ("DNC") and the DSCC. While I have not raised soft money for the Party, occasionally the Party had asked me whether certain people I knew would be willing to make large soft money donations.

9. Parties expect Members to call some of the big donors in their home states and, for example, suggest sending the DNC a donation of $15,000 for a table at a DNC dinner. These are often donors who have previously contributed to the Member's campaign, and some of them may be "maxed out" donors who have already contributed the maximum allowable amount of hard dollars to that campaign.

10. When a Member raises money for the party, there is a sense on the part of the Member that he or she is helping his or her own campaign by virtue of raising that money. When Members raise funds for the DNC, it helps the DNC perform its function of keeping tabs on statements, policies,

and votes of opposition party members and groups.

11. Members who raise money for the DSCC expect some of that money to come directly back to them. Part of this unwritten but not unspoken rule is that if you do not raise a certain amount of money for the DSCC, you are not going to get any back. The DSCC does not give a candidate the maximum allowed unless he or she has raised at least a certain amount for the DSCC. The last time I ran, I remember that the DSCC promised to give every candidate a minimal amount of money regardless of whether he or she did any fundraising for the DSCC. To get more than the minimum, however, you had to raise money for the DSCC. For example, if I had helped the DSCC raise the maximum amount it could legally expend on my behalf, I certainly would have expected the maximum to come back to me.

12. For Members there would not be any real difference if the funds they solicited were for themselves or for the DNC or DSCC, or if they were hard or soft money donations. Members and donors understand that donations to the party committees help Members.

Soft Money Donors

13. People give money to the DNC, DSCC, and the state parties for the same reasons that they give to individual Members. Some feel that they are ingratiating themselves with the Member who is soliciting the donation. Others contribute out of friendship with the Member who is soliciting the donation, or because they are true believers who simply want to support Democratic causes. People

will only give money to the parties when they are solicited by a Member they respect, like, or know out of friendship, and I do not think they normally expect to have any say as to how the donation will be spent.

14. Although some donors give to Members and parties simply because they support a particular party or Member, the lion's share of money is given because people want access. If someone gives money to a party out of friendship with a Member, that donor may never ask for anything in return. However, although many people give money with no present intention of asking for anything in return, they know that if they ever need access they can probably get it. Donations can thus serve as a type of insurance.

15. Giving soft money to both parties, the Republicans and the Democrats, makes no sense at all unless the donor feels that he or she is buying access. The business community makes such donations quite often.

16. I believe that, in many instances, there is an expectation of reciprocation where donations to the party are made. Donors also often give large soft money donations when legislation that affects them is being considered in Congress. For example, when the Senate considered the Patients' Bill of Rights, the insurance companies began loading up the Republican Party with soft money.

17. Likewise, I do not think the tobacco industry gives the Republican Party a million and a half or two million dollars because they expect them to take a very objective view on tobacco issues. I think the tobacco industry got what they expected when, after they had given scads of money to both

the Republican National Committee and the National Republican Senatorial Committee, a majority of Republicans killed the tobacco bill. You can just look at a series of events: the money is given to the Republicans, the party begins to take a stand, Members of the party start filibustering any efforts by Democrats to bring up the bill. It was the best investment that the tobacco industry ever made. Those things are not written out or spoken, that is just the way it happens.

Effects of Soft Money Donations

18. I doubt there is a politician on Capitol Hill who would deny that soft money donations get people access. The unwritten law in the Congress is that those who have consistently been good party members and good donors can get access. They can get their phone calls returned. I have heard that some Members even keep lists of big donors in their offices.

19. I think a lot of politicians have a little filter in their ears when a legislative vote comes up. They quite often run that vote through their memory filter and determine how the vote will affect jobs in their state, and how it will affect the supply of donations, in terms of who is likely to be offended and who is likely to be helped by the vote. That is just human nature, and there is nothing illegal about it.

20. I think it would be naive in the extreme to suggest that, for example, someone who gave $20,000 to the DSCC at the solicitation of a Member would not get his or her phone call returned, or have access to the Member who solicited the donation. And you cannot be a good Democratic or

a good Republican Member and not be aware of who gave money to the party. If someone in Arkansas gave $50,000 to the DNC, for example, I would certainly know that. Likewise, if someone gives $100,000 to the Presidential inauguration committee, that is something politicians and party officials keep in their memory bank.

21. Soft money gives big corporations and the very wealthy an inordinate advantage over others in the legislative process. If these corporations or individuals have given $100,000 to either or both parties, their chances of securing a change in legislation in Congress is exponentially increased. Often donors seek legislative changes so that they or their business can reap large financial gains.

22. The effect of soft money on the legislative process is sometimes obvious, as with the tobacco legislation or the Patients' Bill of Rights. Other times, however, there are more subtle ways to affect legislation that do not receive media attention. For example, Members may choose to filibuster a bill which would adversely affect an industry that has given large soft money donations to their party, or a committee chairman may similarly stall a bill.

23. Constituents do not distinguish between money that candidates raise for their own campaigns and money they raise for the party committees.

The Burdens of Fundraising on Members of Congress

24. The rise in soft money giving has increased the burden placed on Members to spend time raising funds. The great majority of Members find it anathema to spend such an inordinate amount of

their time trying to raise money. But with the rise of self-funded millionaires running for election to Congress, Members do not have a choice but to spend more and more time raising funds.

25. The burdens of fundraising are sometimes a reason that Members choose to retire. For example, I remember when Tom Eagleton made a speech on the Senate floor announcing that he would not be running for reelection. I went up to him afterwards and said, "Tom, why are you doing this? You're a great Senator and we need you." He responded by saying that he was tired of going around with his tin cup out. I, too, detested fundraising, and that was one reason I decided not to seek reelection.

Issue Advertisements

26. Soft money also finds its way into our system through so-called "issue advertisements" sponsored by outside organizations that mostly air right before an election. Organizations can run effective issue ads that benefit a candidate without coordinating with that candidate. They have experienced professionals analyze a race and reinforce what a candidate is saying. These ads influence the outcome of elections by simply stating "tell him [the opponent] to quit doing this." The "magic words" test is completely inadequate; viewers get the message to vote against someone, even though the ad may never explicitly say "vote against him."

27. Members or parties sometimes suggest that corporations or individuals make donations to interest groups that run "issue ads." Candidates whose campaigns benefit from these ads greatly

appreciate the help of these groups. In fact, Members will also be favorably disposed to those who finance these groups when they later seek access to discuss pending legislation.

28. Politicians especially love when a negative "issue ad" airs against their opponents. If these politicians did not feel that the issue ads were helping them, they would call the people sponsoring them and tell them to stop, or they would hold a press conference and angrily denounce the ads. But that rarely, if ever, happens.

29. One of the most insidious things about soft money "issue ads" is that the ordinary viewer doesn't have a clue as to who paid for the ad. I first noticed this problem in 1996, when I saw several issue ads before it ever dawned on me that those ads were not being paid for by the candidate. What caused my curiosity to be piqued was the ending tag lines on those ads: "Call so and so and tell him to quit doing so and so." At first I just assumed that the ads were paid for by the opposing candidates' campaign funds, though I did think it was very strange that the opposing candidates' names were never mentioned. In those ads, everything is honed in on the candidate the ad is trying to defeat. At that time, I did not know that they were soft money spots. Of course it didn't take long for me to inquire and figure out that they were. However, my view is that 95 to 98 percent of the constituents today who watch ads produced by soft money think nothing of the tag line saying to call someone and never realize those are soft money ads. These ads are clearly election-related.

30. I considered soft money-funded issue advertising in 1996, and I consider it now, to be the

most insidious thing going on in politics. Soft money spent on issue ads is a way to circumvent the campaign contribution limits. A thousand dollars is the most a candidate can take from an individual, but you can take a gazillion in soft money and run those kinds of ads, which make a mockery of the campaign finance laws. In this respect, the current system is rotten to the core, and in my opinion, it is awful for the body politic.

Lobbyists and Political Donations

31. As a government relations consultant, I have seen firsthand how campaign finance money affects the legislative process. My clients expect me to advise them on what is likely to happen in Congress and especially what actions they should take when legislation that affects them is at a critical stage. Having spent 24 years in the Senate, I often know exactly what Congress is going to do and why. Oftentimes, campaign finance money is the reason why certain legislation either passes or dies.

32. Like other governmental relations consultants, I will occasionally discuss political donations with my clients. Sometimes I advise my clients to make donations; other times, my clients approach me about political giving. I tell my clients that they should contribute to the Members who can do the most good for them, such as the Chairman or Ranking Member of a committee that has jurisdiction over issues affecting them.

33. From time to time, I will also recommend to clients that they participate in a political fundraiser. Lobbyists often receive invitations for fundraising events to pass on to their clients. In

fact, I receive an average of five fundraising invitations per day from Members or parties. Both Members and the parties pressure lobbyists and their clients to attend these events and make donations.

34. Although I am loathe to perpetuate what I see as a corrupt process, I still encourage my clients to attend fundraisers and make donations. The truth is that you cannot be a player in Washington unless you immerse yourself in the current system.

Conclusion

35. I do not accept the specious claim that free speech rights will be infringed by the new McCain-Feingold law. I am a staunch defender of the Bill of Rights, and I fully support the new law.

36. Our current campaign finance system is crass, unholy, and destructive of democracy. People are dreaming if they think a democracy can survive when elected officials and the bills they consider are beholden to big donors. Currently, you can't find a better method of ensuring government help from time-to-time than to make significant soft money donations. The vast majority of citizens do not have the resources to donate soft money, and they are entitled to as much consideration as those that do. James Madison would be whirling in his grave if he saw how corrupt our system has become.

37. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

/s/ Dale Bumpers
Dale Bumpers

Executed on this 1st day of October, 2002

Exhibit 35

Public Campaign

[LOGO]

Why the Battle Over Hard Money Matters

Hard Facts On Hard Money

Executive Summary

While political party soft money is getting the most attention, it's hard money that dominates the campaign finance landscape. The core of the McCain-Feingold bill is banning approximately the one-sixth of the campaign dollar pie comprised of soft money contributions to national political parties. That's an important objective. But the real battle over the bill could end up turning on amendments that would relax rules governing hard money – most significantly by raising the $1,000 individual per-election, per-candidate contribution limit.

- Of the $2.9 billion collected for the 2000 elections by federal candidates and national political parties, three-fourths – $2.2 billion – was hard money (see page 2). Hard money outweighs party soft money by a ratio of 4.4 to 1 (p. 2).
- Total hard money contributions to candidates and parties rose by $555 million in 2000 as compared to 1996. Soft money increased by $232 million over the same period (p. 3).
- Well connected donors bundle hundreds of $1,000 hard money donations. Their influence reflects their ability to raise hundreds of thousands of dollars from family members, business colleagues and others – not their personal $1,000 contributions. Increasing the limit would increase their influence (p.5).

- In the 2000 elections, seven out of ten dollars collected by federal candidates from individual donors came from donors of $200 or more; 44 percent came from donors giving $1,000 or more. p. q. In the 2000 elections just 1/8th of one percent of the voting age population gave $1,000 or more. (p. 9) Top donors have influence disproportionate to their numbers even at the current limit.

- These donors are not representative of the nation economically or demographically. They are wealthier and older than most Americans and most are white males (p. 9).

- If the hard money limit were hiked from $1,000 to $3,000, new hard money contributions could easily surpass the amount of soft money banned by the McCain-Feingold bill (p. 1).

- Senate incumbents in 2000 raised, on average, nearly three times as much as their challengers did from donors of $1,000 or more: $1.8 million v. $650,000. House incumbents in 2000 raised more than twice as much from donors of $1,000 or more as their challengers, on average: $178,000 v. $85,000. Raising the hard money limit would exacerbate the advantage incumbents already have over challengers.

- The effect of bundled hard money contributions on policy can be clearly seen in recent congressional actions on bankruptcy reform, the Arctic National Wildlife Refuge, and workplace ergonomics regulations.

The hard facts are clear. Ridding the campaign finance system of party soft money would eliminate an enormous amount of special interest cash. Yet, at the same time, no matter how the numbers are sliced and diced, increasing the amount of cash that individuals can contribute in hard

money would limit severely the benefits of a ban on party soft money. Campaign donors would simply shift their soft money contributions into the hard money pile, which is already substantial, and, in fact, towers over the amount of party soft money raised.

Banning party soft money would be an important accomplishment. But, comprehensive campaign finance reform must address the whole issue of special interest money in elections, including hard money. If it does not, the American people will be stuck with the same problem they have now – trying to make their voices heard over the *ka-ching* of special interest cash.

INTRODUCTION

The 2000 elections set the record for campaign contributions. Disgust over the billions contributed by special interests, seeking special favor, is a driving force behind the reform effort in Congress led by Senators John McCain (R-AZ) and Russell Feingold (D-WI). At the core of their legislation, the Bipartisan Campaign Reform Act of 2001, is a ban on "soft money" contributions to national political parties. Banning these unlimited, unregulated contributions would be an important first step toward comprehensive campaign finance reform. Nevertheless, it is crucial to remember that the money the McCain-Feingold bill reaches is only about a sixth of the campaign dollar pie. Most money raised by politicians is old-fashioned "hard dollars." In fact, of the $2.9 billion collected for the 2000 elections by federal candidates and national political parties, three-fourths – $2.2 billion – was hard money.

This hard money is not "good" or "clean" or "disinterested" money. Although there are certainly many ordinary

Americans giving contributions because of their convictions, the bulk of political money comes from generous donors with more practical reasons for giving. In the 2000 elections, seven out of ten dollars collected by federal candidates from individual donors came from donors of $200 or more; 44 percent came from donors giving $1,000 or more. These donors are not representative of the nation economically or demographically. They are wealthier and older than most Americans and most are white males. Many are corporate executives, bundling contributions with their colleagues and handing them over to politicians sitting on important committees regulating their businesses.

These hard facts are all the more important because of what is expected to occur as Congress debates the McCain-Feingold bill. Among the expected amendments are several that would loosen the current restrictions on hard money. These amendments could be tremendously damaging. It is expected that proposals will be offered to increase the amount of hard money an individual is permitted to contribute to a candidate's campaign from the current limit of $1,000 per candidate per election (primary and general) to $1,500, $3,000, or even $6,000. Hard money already comprises the majority of campaign cash collected for elections. If party soft money is eliminated, it is a safe bet that some special interest money will simply flow back into the campaign finance system in the form of hard money, or through other means. If hard money limits are increased, the gains of banning party soft money easily could be undone.

Ultimately, a complete overhaul of how elections are funded will be required if the goal is to clean politics of the taint of special interest influence. Legislation to accomplish

this for federal elections has been introduced by Senator Paul Wellstone (D-MN) and Representative John Tierney (D-MA). Under such a Clean Money/Clean Elections campaign finance system, candidates who agree to forego private contributions and accept spending limits receive limited money to run their campaigns from a publicly financed Clean Money/Clean Elections fund. On the state level, the Clean Money/Clean Elections system has proven itself as a practical reform. Maine and Arizona's laws went into effect this past election with outstanding results.

In this report, we will give an overview of hard money: what it is, who gives it, and how political fundraising might be affected if hard money limits were increased. It updates the Public Campaign report *Hard Facts: Hard Money in the 2000 Elections* (October 2000) which was based largely on data from the first 18 months of the 2000 election cycle. In this report, 2000 election cycle data includes contributions from January 1, 1999 through December 31, 2000, the full election cycle, as reported to the Federal Elections Commission.

Source: Federal Election Commission. Reflects campaign money collected between 1/1/99 - 12/31/00 by Congressional candidates and national political parties, and contributions from 1/1/99 - 11/27/00 by presidential candidates.

HARD MONEY IS BIG, SPECIAL INTEREST MONEY

When people think "campaign finance reform," the next words that come to mind are usually "soft money." Yet hard money remains the major feature of the political contribution landscape, and it comes from the same cast of

special interest donors. When politicians and party officials count up the cash that rolls in from generous donors, they do not necessarily make a distinction between whether the donor gave a hard or a soft dollar. The difference between hard and soft dollars is simply a matter of the legality of how these dollars are given and how they can be spent.

"Hard money" is the term commonly used to describe direct contributions to politicians' campaign committees and party committees that are limited under the Federal Election Campaign Act (FECA). Under the law, individuals may give $2,000 directly to a candidate over an election cycle – $1,000 for the primary, and $1,000 for the general election. An individual may also give up to $20,000 to a national party committee annually, and up to $25,000 in a calendar year overall. Political Action Committees (PACs) may give $10,000 per election to a candidate ($5,000 for the primary, $5,000 for the general).

Also included in "hard money" are candidates' contributions to their own campaigns, which are not limited by law. In a few instances, wealthy candidates are spending tremendous sums. For example, Sen. Jon Corzine (D-NJ), who earned a fortune working for investment firm Goldman Sachs, gave himself $60.2 million toward his bid for a New Jersey Senate race.[1] Sen. Maria Cantwell (D-WA), who became wealthy working as a senior vice president for the high-tech company RealNetworks, gave herself $10.3 million.[2]

Party "soft money" is simply a different type of political cash.[3] Through a loophole in campaign finance laws, any individual or entity, including corporations and unions

(which are forbidden to give direct hard money contributions) can give unlimited amounts of cash to national party committees. The parties use the money for state and local campaigns, party building, and voter drives. Technically, this soft money is not supposed to be used to advocate for or against a particular candidate. However, the parties have become adept at skirting this restriction by running advertisements or sending out letters that avoid using words such as "vote for" or "vote against," but for all practical purposes support or oppose a candidate. Soft money contributions to national party committees increased astronomically in the 2000 elections over soft money collected in the previous presidential election cycle. The national parties collected nearly twice as much soft money in the 2000 elections as they had in 1996, $494 million versus $262 million – an increase of $232 million.[4]

Source: Federal Election Commission. 2000 totals reflect campaign money collected between 1/1/99 - 12/31/00 by Congressional candidates and national political parties, and contributions from 1/1/99 - 11/27/00 by presidential candidates.

The amount of hard money contributions collected by candidates and parties also rose significantly in 2000 compared to 1996, up to $2.165 billion from $1,610 billion – a 35 percent increase totaling $555 million. So, although party soft money has caught people's eye because of its shocking rate of increase, and its leap onto the stage as a major source of campaign funding, hard money has actually increased more in total dollars. Hard money remained the dominant source of campaign funding in the 2000 election cycle outweighing party soft money by a ratio of 4.4 to 1.

IT COULD GET WORSE

There is serious discussion in Congress of, as part of the McCain-Feingold bill, easing the rules on hard money to allow hundreds of millions more dollars into the campaign finance system. The particular proposal getting the most attention is an increase in the $1,000 limit on the amount individuals can give congressional candidates. An amendment such as this could completely undermine the objectives of the McCain-Feingold legislation.

Even a McCain-Feingold bill that stuck to banning party soft money is unlikely to squeeze every party soft money dollar out of the system. Some would find its way back in through hard money contributions and non-party issue advocacy. But increasing the hard money limits could open a door to move the money stopped by the soft money ban back in via other paths.

Donors giving a hard money contribution of at least $1,000 gave about $380 million to federal candidates in the 2000 elections, for both primary and general races. If the limit had been $3,000 it is possible those donors could have given over a billion dollars. Their additional contributions could have been well over the amount of party soft money, which amounted to $494 million, that would have been banned by McCain-Feingold. A bill that bans party soft money but hikes the hard money limit could easily fail to achieve even the minimum goal of reducing the amount of influence-buying money in politics.

Raising hard money limits would also exacerbate forces in the system that protects incumbents and make it difficult for qualified challengers to run a competitive campaign. For example, Senate candidates in 2000 raised, on average, nearly three times from donors of $1,000 or more as much as

their challengers did: $1.8 million versus $650,000. House incumbents in 2000 raised more than twice as much from donors of $1,000 or more as their challengers, on average: $178,000 versus $85,000. Raising hard money limits could amount to enacting "The incumbent Protection Act of 2001."

Source: Analysis of data provided by Center for Responsive Politics, 2000 cycle based on Federal Election Commission data reflecting contributions from 1/1/99 through 12/31/00, downloaded in March 2001. Contributions reflect the full six year Senate cycle.

Source: Analysis of data provided by Center for Responsive Politics, based on Federal Election Commission data reflecting contributions from 1/1/99 through 12/31/00, downloaded in March 2001.

BUNDLING HARD MONEY INCREASES 'PURCHASE POWER' FOR SPECIAL INTERESTS

The statutory limits on contribution size give some a false sense of security when it comes to hard money, and an opportunity for deception for others. Currently, an individual can give up to $2,000 per election cycle – $1,000 for the primary, $1,000 for the general – to a candidate. Although out-of-reach for most Americans, it is sometimes suggested that, with the levels of campaign contributions being what they are, $1,000 doesn't buy much influence from a Member of Congress. Whatever $1,000 might or might not buy, hard money frequently comes bundled in much bigger amounts than $1,000.

Families, for example, often collaborate to give significant amounts of hard money. If each member of a couple gives the maximum, then together they can give a total of

$4,000 to a candidate for a primary and general election. Creative families can, and often do, get their kids involved as well. There is nothing in the law to prevent a child from also giving a contribution. If a couple has two children, and if all four family members give the maximum contribution, then the family can give $8,000. If contribution limits were tripled that would go up to $24,000 per candidate per election cycle.

Nothing Beats Hard Cash

There are a number of reasons why hard money is crucial for politicians' success. First, early money is hard money. The name of EMILY's List, the network of political donors founded to help elect pro-choice Democratic women, is derived from the political slogan "Early Money Is Like Yeast – It Makes the Dough Rise." Or, as former House member Vic Fazio said, "People are looking for winners . . . Early money has been one of the indicators that rarely goes wrong."

- Early money means viability. One of the first things political contributors, the political parties and other potential supporters want to know about a new candidate is whether they can raise enough money for a viable candidacy. The way for a candidate to show viability is by accumulating early contributions directly for their campaign treasury. This type of contribution is hard money.

- Early money can intimidate. Potential candidates and their supporters also want to know how much the opponent will raise. Well-connected candidates scare off challengers, and support for challengers, with large war chests of early hard money contributions from wealthy individuals and PACs. This

is one reason most experts saw only 30 to 40 congressional races as competitive in 2000.

- Party soft money is useless without hard money. Federal law requires that party soft money may only be spent in combination with hard money according to a complex state-by-state formula – in a presidential election year, roughly two hard dollars for every one soft dollar. It is as if a store would only accept your one dollar bill if you also provided two Sacagawea dollar coins along with it.

Hard money is more versatile than soft money. Hard money may be used for any election expense, from polling to phone-banking to advertisements that directly urge the public to vote for the candidate. Technically, soft money cannot be used to fund ads that use phrases such as "vote for" or "vote against." As a practical matter, this isn't much of a limitation. But hard money is, nevertheless, more valuable because it is not subject to these limitations.

This same strategy works even better for corporate executives with colleagues in their company and industry. Analysis of campaign finance records often shows patterns such as many corporate executives giving contributions to a particular candidate on the same day or on days close together. For example, 63 donors listing "MBNA" as their employer gave Sen. Joseph R. Biden (D-Del.) a total of $47,250 over the period of just one month – May 1999. Over the course of the entire election cycle, Biden collected a total of $130,175 from MBNA National Bank executives and their families. MBNA National Bank, the nation's largest credit card issuer, is poised to be one of the biggest beneficiaries of bankruptcy reform legislation recently approved by Congress. (See: Why Bundling Matters later

in this report.) Biden voted "yes" on the legislation when it came to a floor vote on March 15, 2001.

Biden was not the only candidate given a bundle of cash from MBNA. The top donor to President George W. Bush's presidential campaign was MBNA National Bank's executives, their families, and PAC, who gave him nearly $240,700 in individual hard money. MBNA CEO Charles Cawley is a Bush "pioneer," one of the volunteer fundraisers who raised at least $100,000 for the campaign. He and his wife Julie personally gave a total of $2,000 to Bush and nearly $20,000 overall to federal candidates. Bush has indicated his support for the bankruptcy reform legislation.

In accepting MBNA money, Biden and Bush weren't doing anything that isn't widely practiced. It's all part of being a successful politician in today's political system.

Other examples of campaign cash bundles are the $60,000 that Sen. Robert Torricelli (D-NJ) received from Lockheed Martin's PAC, employees, and families between 1995 and 2000; the nearly $27,000 that Sen. Chuck Hagel (R-NE.) received from ConAgra Inc's PAC, employees and families; and the $27,000 Sen. John Breaux (D-LA) received from Joseph E Seagram & Sons' PAC, employees and their families over the same time period.[5] Increasing the hard money limits would increase the capacity of institutions like these companies to influence the political process with large hard money contributions from well-off executives, combined with contributions from PACs.

The current $1,000 hard money limit is, thus, not serving as an effective barrier to corporate influence in the political process. Raising the limit would, obviously, increase

the influence of those currently able to bundle large numbers of $1,000 checks.

A CASE STUDY: THE LINDNERS, THE FAMILY THAT BUNDLES TOGETHER

Carl H. Lindner has been on the *Forbes* list of the 400 richest Americans since 1982, and has a personal fortune estimated at $800 million. He is chairman of the board of American Financial Group, Inc., a financial holding company whose primary business is insurance. In addition, he has a 40 percent stake in Chiquita Brands International, which grows bananas in Central America. Lindner and his family are famous for bundling contributions to politicians and political parties. He is also well known for extracting what he needs from the U.S. government. One recent example is how Lindner successfully lobbied the Clinton Administration to impose trade sanctions against certain European imports in retaliation for import restrictions on the bananas he produced in Latin America, as detailed in an investigative report by award winning Time journalists Donald L. Barlett and James B. Steele.[6]

Though they lean Republican in their donations, they are also generous to Democrats. In the 2000 elections, Lindner and his wife, Edyth, alone were the source of $786,000 in contributions, 65 percent of which went to Republicans.[7]

An examination of Federal Election Campaign contribution records shows how blatantly the Lindner clan bundles political donations. For example, on May 27, 1999, 13 Lindners each gave a contribution of $1,000 to then-presidential candidate George W. Bush for his primary campaign, for a total of $13,000. At that point, the Lindners were still

playing the presidential field. On March 24, members of the Lindner family had given a $12,000 bundle to Elizabeth Dole; on March 31, they had given $6,000 to Dan Quayle, and on May 25, they had given Steve Forbes $10,000.[8]

By the close of 1999, however, with George W. Bush looking more like he would be *the* presidential contender, the Lindners wrote $150,000 worth of hard money checks to the "1999 State Victory Committee." Created in November 1999, the 1999 State Victory Committee was a special joint fundraising group that targeted donors who had already "maxed out" on their hard money contributions directly to the Bush campaign, but not on hard money contributions to the national political parties.[9] Overall, in just two short months, the State Victory Committee raised nearly $5.2 million in hard money contributions, many of these in chunks of $20,000 or $25,000.[10] This is good, hard proof that donors will write large hard money checks to benefit specific candidates if given the opportunity. If hard money contribution limits are raised and party soft money is banned, we can expect donors like the Lindners to write bigger checks for politicians' campaign funds.

1999 STATE VICTORY COMMITTEE				
Contributor	Occupation	Date	City, State & Zip	Amount
LINDNER, CARL H	AMERICAN FINANCIAL GRP	12/21/99	CINCINNATI, OH 45243	$10,000
LINDNER, CARL H III	AMERICAN FINANCIAL GRP	12/21/99	CINCINNATI, OH 45243	$20,000
LINDNER, COURTNEY O'NEIL	HOMEMAKER	12/21/99	CINCINNATI, OH 45202	$20,000
LINDNER, EDYTH B	HOMEMAKER	12/21/99	CINCINNATI, OH 45243	$20,000
LINDNER, FRANCES R	HOMEMAKER	12/21/99	CINCINNATI, OH 45243	$20,000
LINDNER, KEITH E	AMERICA ONLINE INC	12/21/99	CINCINNATI, OH 45202	$20,000
LINDNER, MARTHA S	STUDENT	12/21/99	CINCINNATI, OH 45243	$20,000
LINDNER, S CRAIG	AMERICAN FINANCIAL GRP	12/21/99	CINCINNATI, OH 45243	$20,000
TOTAL				$150,000
Search of FEC data via CRP search engine (www.crp.org).				

LINDNER FAMILY CONTRIBUTIONS TO GEORGE W. BUSH, 2000 Election Cycle				
Contributor	Occupation	Date	City, State & Zip	Amount
LINDNER, ALAN B	UNITED DAIRY FARMERS	5/27/99	CINCINNATI, OH 45243	$1,000
LINDNER, BETTY R	HOMEMAKER	5/27/99	CINCINNATI, OH 45243	$1,000
LINDNER, CARL H	AMERICAN FINANCIAL	5/27/99	CINCINNATI, OH 45243	$1,000
LINDNER, CARL H III	GREAT AMERICAN INSURANCE	5/27/99	CINCINNATI, OH 45243	$1,000
LINDNER, COURTNEY O	HOMEMAKER	5/27/99	CINCINNATI, OH 45202	$1,000
LINDNER, DAVID	UNITED DAIRY FARMERS	5/27/99	CINCINNATI, OH 45202	$1,000
LINDNER, EDITH	HOMEMAKER	5/27/99	CINCINNATI, OH 45243	$1,000
LINDNER, FRANCES R	HOMEMAKER	5/27/99	CINCINNATI, OH 45243	$1,000
LINDNER, KEITH E	AMERICAN FINANCIAL	5/27/99	CINCINNATI, OH 45202	$1,000
LINDNER, MARTHA S	HOMEMAKER	5/27/99	CINCINNATI, OH 45243	$1,000
LINDNER, ROBERT D	UNITED DAIRY FARMERS	5/27/99	CINCINNATI, OH 45212	$1,000
LINDNER, ROBERT D JR	UNITED DAIRY FARMERS	5/27/99	CINCINNATI, OH 45243	$1,000
LINDNER, S CRAIG	AMERICAN ANNUITY GROUP	5/27/99	CINCINNATI, OH 45243	$1,000
TOTAL				$13,000
Search of FEC data via CRP search engine (www.crp.org).				

Other Lindner Bundles:

- $10,000 for Sen. George Allen (R-VA) on October 10, 2000;[11]
- $20,000 to GOP Missouri Senate candidate John Ashcroft, now attorney general; $11,000 on March 14, 2000, and $9,000 more on October 16, 2000;
- $5,000 to Rep. Bob Barr (R-GA) on June 1, 1999;
- $29,000 to Rep. Steve Chabot (R-OH): $13,000 on April 26, 1999; $10,000 on August 1, 2000, and $6,000 from September 26-30, 2000;
- $14,000 to Sen. Hillary Clinton (D-NY) during the month of August 1999;
- $13,000 to Sen. Mike Dewine (R-OH) on May 26, 1999;
- $8,000 to Rep. John Dingell (D-MI) on July 15, 1999;
- $12,000 to GOP presidential candidate Elizabeth Dole on March 24, 1999;
- $10,000 to GOP presidential candidate Steve Forbes on May 25, 1999;
- $6,000 to GOP presidential candidate Dan Quayle on March 31, 1999;
- $6,000 for GOP Florida Senate candidate Bill McCollum; $4,000 on June 30, 2000, and $2,000 On October 17, 2000;
- $8,000 to Sen. Mitch McConnell (R-KY) on July 12, 1999;
- $13,000 for Sen. George V. Voinovich (R-OH) on June 19, 2000.

FEW GIVE BIG – AND THEY EXPECT TO RECEIVE

The Lindners and other hard money bundlers are members of an elite donor class that want something in exchange for their contributions. In the 2000 elections, about 265,000 people out of 206 million people of voting age gave a contribution of $1,000 or more to federal candidates.

This is just about 1/8th of one percent of the voting age population. A survey of donors of $200 or more in the 1996 elections revealed that four-fifths had an annual family income of more than $100,000 a year, only one in 20 had annual incomes of $50,000 or less. More than nine out of ten were white.[12] By comparison twelve percent of U.S. households have total income of $100,000 or more and 60 percent have total income of $50,000 or less.[13] Twenty-nine percent are people of color.[14]

An examination of individual contributions to federal candidates in the 2000 elections shows that the majority – three-fourths of hard money contributions to candidates – came from donors giving at least $200 apiece. Of that amount, 44 percent came from donors giving at least $1,000. Thus, the narrow band of well-off contributors who can give $1,000 contributions play a role that is already vastly out-of-proportion to their numbers. Increasing the hard money limits would give them even more power relative to most Americans.

When hard money donors are asked what they get for their money, they tell it straight: they gain access that others don't. A recent poll of political donors by Lake, Snell, Perry and Associates commissioned by the Nation Institute and the Institute for America's Future revealed that 54 percent of large donors said they had spoken personally to a federal elected official in just the past year-clearly a far larger percentage than the general population.[15] A survey of donors in the 1996 presidential elections revealed that 76 percent said "influencing policy/government" was a "very important" reason why they gave money.[16]

Source: Analysis of data provided by Center for Responsive Politics, based on Federal Election Commission data reflecting contributions from 1/1/99 through 12/31/00, downloaded in March 2001.

WHY HARD MONEY MATTERS

There is no need to be theoretical about how hard money might affect policymaking in Washington. All that is needed is to look at what is going on right now. As this report is being written, the 107th Congress has already approved major legislation supported by major campaign contributors. These are givers of soft money, to be sure – but even more generous givers of hard money.

Bankruptcy Reform

For more than two years, the credit card industry has been lobbying to change the country's bankruptcy laws to make it more difficult for people to wipe out their debts if they hit hard times. The industry argues that people ought to live up to their financial obligations. Consumer critics, however, counter that the credit card industry should bear responsibility for extending credit to people who can't afford it, such as college students and people already strapped by debt. In addition, many people in bankruptcy are facing a major life crisis – such as divorce or serious illness – which can wreak havoc on even carefully planned family finances.

On March 1, 2001, the House of Representatives voted 306 to 108 to pass H.R. 333, sponsored by Rep. George Gekas (R-PA), and on March 15, 2001, the Senate followed suit with a vote of 83 to 15 on S.420, sponsored by Sen. Charles

Grassley (R-IA). The bill, authored with the help of the credit card industry, would make it tougher for overextended consumers to reduce their debts, forcing many to file under a section of the bankruptcy code where they are more likely to lose their homes and cars. If the bill becomes law, it could mean billions of dollars in additional profits for the credit card industry, raising their profits by as much as 5 percent in 2002.[17]

The credit and commercial banking industry distributed $38 million to federal candidates and parties in the 2000 elections. Two-thirds of those dollars were hard money contributions – contributions bundled from company executives and PACs. MBNA (see Bundling Hard Money Increases 'Purchase Power' for Special Interests) is poised to benefit greatly from the legislation if it becomes law – an additional $75 million in extra profits in 2002.[18] The two industries giving Gekas, the lead House sponsor of the legislation, the most money in his last election were the credit and commercial banking industries – a total of $37,200. Grassley, the lead Senate sponsor, received $82,300 from commercial banks between 1995 and 2000, a full Senate cycle.[19]

Commercial Banks & Finance/Credit Industries, 2000 Election Cycle				
	Individuals ($200+)	PACs	Soft Money	Total
Commercial banks	$10,276,006	$8,414,763	$9,838,206	$28,528,975
Finance/Credit companies	$3,423,226	$2,183,150	$3,597,545	$9,203,921
Total	**$13,699,232**	**$10,597,913**	**$13,435,751**	**$37,732,896**

Source: Center for Responsive Politics, industry profile, www.crp.org.

Opening the Arctic National Wildlife Refuge

Gas and heating bills are up, and consumers are feeling the crunch. In Congress, Sen. Frank Murkowski (R-AK) and Sen. John Breaux (D-LA) have responded with their plan for dealing with our energy woes: drill more oil. The National Energy Security Act of 2001, S. 388, would open up the Arctic National Wildlife Refuge (ANWR) to oil exploration.

The refuge is home to polar bears, grizzlies, Arctic wolves, musk ox, and caribou. The Natural Resources Defense Council (NRDC) calls it one of the "world's last truly pristine wild places," and "one of the largest sanctuaries for Arctic animals on the planet." According to NRDC's analysis, Americans use up over a six-month period the amount of oil that is economically recoverable in the ANWR – some 3.2 billion barrels over 50 years.[20]

The oil and gas industry distributed $32.4 million to political candidates and parties in the 2000 elections, just over half of which came in the form of hard money. President George W. Bush, who has declared his strong support for drilling in the ANWR, received $1.8 million in hard money for his presidential campaign from the oil and gas industry.

Oil & Gas Industry, 2000 Election Cycle			
Individuals ($200+)	PACs	Soft Money	Total
$10,225,525	$6,684,702	$15,514,575	$32,424,802

Source: Center for Responsive Politics, industry profile, www.crp.org.

Ergonomics

In today's mechanized and office oriented economy, one of the biggest threats to workers' safety are injuries incurred from repetitive motion – whether it is typing at a computer terminal, performing the same movement on an assembly line, or loading packages in a warehouse. When President Clinton, in the waning days of his administration, issued new workplace safety regulations on ergonomics, it was an enormous win for organized labor, which had been pushing for new rules for a decade.

All that was undone in early March, when the Senate and the House, in quick succession, voted to repeal the new regulations, largely along party lines. In the House, the vote was 223 to 206; in the Senate, it was 56 to 44.

A look at campaign contributions helps explain this swift action. Although labor unions contribute significant amounts to politicians and political parties, that amount is dwarfed by the amount that business interests give. In the 2000 election cycle, for every one dollar contributed by labor unions, hard and soft, business interests gave $15. The imbalance is even more extreme when contributions from individuals are examined. Business executives outcontributed labor leaders and staff by a factor of 1,000:1.

Source: Center for Responsive Politics, www.opensecrets.org/2000elect/storysofar/blio.asp. "Hard Money" includes PAC contributions and contributions from individuals of $200 or more.

Conclusion

The hard facts are clear. Ridding the campaign finance system of party soft money would eliminate an enormous amount of special interest cash. Yet, at the same time, no

matter how the numbers are sliced and diced, increasing the amount of cash that individuals can contribute in hard money would limit severely the benefits of a ban on party soft money. Campaign donors would simply shift their soft money contributions into the hard money pile, which is already substantial, and, in fact, towers over the amount of party soft money raised.

Comprehensive campaign finance reform *must* address the whole issue of special interest money in elections, including hard money. If it does not, the American people will be stuck with the same problem they have now – trying to make their voices heard over the *ka-ching* of special interest cash.

Public Campaign supports Clean Money/Clean Elections Campaign Reform. This approach creates a new way of funding elections rather than trying to sew up the many loopholes in the current system. The link between special interests and politicians is severed, because candidates do not have to rely on their money in order to run a viable campaign for public office. Under a Clean Money/Clean Elections campaign finance system, candidates who agree to forego private contributions and accept strict spending limits receive limited money to run their campaigns from a publicly financed Clean Elections fund. If the candidate's opponent opts out of the Clean Money system and runs on private money, then the Clean Money candidate can qualify for additional matching funds. Clean Money/Clean Elections candidates targeted by issue ads can also receive additional funds. There is no more political party "soft money," and, aside from small qualifying contributions, no more "hard money" either for Clean Money/Clean Elections candidates.

Arizona, Maine, Massachusetts, and Vermont have new Clean Money systems. On the federal level, Senator Paul Wellstone (D-MN) and Representative John Tierney (D-MA) have proposed legislation. Although reforms that ban soft money are an essential step, these states and leaders recognize the fundamental truth that hard money is just as much a corrupting influence on our elections as soft money – and the best solution to the corrosive effects of the current system is Clean Money/Clean Elections Campaign Reform.

Methodology

Unless otherwise noted, all campaign finance data in this report are based on a Public Campaign analysis of data provided by the Center for Responsive Politics, which collects and analyzes campaign finance data from the Federal Election Commission. Data for the 2000 election cycle reflect contributions from 1/1/99 - 12/31/00, and were downloaded in March 2001. Totals for Senators include contributions from 1995 to 2000, a full six-year Senate cycle. Most Senators raise the majority of their cash in the two years preceding an election.

Other Methodological Notes:
The totals in this report referring to "donors who gave at least $1,000" or "contributions of at least $1,000" include only contributions by donors who gave at least $1,000 to a candidate in a single contribution. Some donors, however, give $1,000 or more spread over several checks for smaller amounts during the course of a campaign. Thus, the $380 million indicated may slightly understate the amount given by donors who gave a total of at least $1,000 or more to a candidate over the entire election cycle.

There is, however, also a very small offsetting over-counting resulting from the methodology employed. Conceivably, there are instances where contributors wrote a single check for $1,000 or more and are thus counted in the $380 million, but the contribution was allocated partly to a primary and partly to a general election campaign. In such a case, it is possible that the donor did not "max out" at $1,000 for either the general or the primary election campaigns despite having written a check for over $1,000. In the FEC data compiled by the Center for Responsive Politics, there are also sometimes errors-sometimes on the donor end, when a contributor writes a check for more than is legally allowed, which later may be corrected in a negative, or return contribution, or a reallocation of the contribution to a different campaign fund or entity. In order to correctly account for these erroneous contributions, totals referring to "contributions of $1,000 or more" include the negative contributions reported by the FEC where they are negative entries of $1,000 or more.

The FEC data complied by the Center for Responsive Politics reflects contributions over a calendar time period which may not precisely reflect contributions over an election cycle. For example, contributions are still being made, well into 2001, to pay off debts incurred by candidates during the 2000 election cycle.

As with all information that is transferred from written reports into electronic form, there are also sometimes FEC data entry errors.

FOOTNOTES:

1. www.opensecrets.org/politicians/index/N00009945.htm.
2. www.opensecrets.org/politicians/index/N00007836.htm.

3. Another type of "soft money" is money spent on issue advertising and other communications by private groups – business coalitions, labor unions, special interest groups – that, like those bought with party soft money, stop just short of direct political advertising. Because this type of soft money is not required to be reported to the Federal Election Commission (FEC), as party soft money is, we do not know exactly how much is spent. However, the likelihood is that it is a much smaller amount than party soft money. Most outside money is spent on competitive races, and the number of competitive races is shrinking rapidly. A study of seventeen of the most competitive congressional races in 2000 found that an estimated $20 million was spent on television and radio advertising by outside groups, such as the Business Roundtable and the AFL-CIO. (See: David B. Magleby, editor, "Election Advocacy: Soft Money and Issue Advocacy in the 2000 Congressional Elections," Center for the Study of Elections and Democracy, Brigham Young University, February 2001. The authors estimated the amount spent on issue advertising by analyzing television and radio advertisements in selected races and extrapolating costs from broadcast advertising data.)

4 Federal Election Commission.

5 Center for Responsive Politics, politician profiles.

6. Donald L. Barlett and James B. Steele, "How to Become a Top Banana," Time, February 7, 2000.

7. Center for Responsive Politics, based on data downloaded October, 1, 2000, www.opensecrets.org/2000elect/storysofar/topindivs.asp.

8. Contributions downloaded from Center for Responsive Politics website (www.crp.org), which provides a search engine for data collected by the Federal Elections Commission.

9. Jim Drinkard, "Bush, state parties create partnership," USA Today, November 1, 1999, p. 17A.

10. Search of FEC data via CRP search engine (www.crp.org).

11. Search of FEC data via CRP search engine (www.crp.org).
12. John Green, et al., "Individual Congressional Campaign Contributors: Wealthy, Conservative and Reform-Minded," The Joyce Foundation, June 1998.
13. U.S. Census Bureau, Current Population Reports, P60-209, Money Income in the United States: 1999, U.S. Government Printing Office, Washington, DC, 2000, Table 2.
14. "Resident Population Estimates of the United States by Sex, Race, and Hispanic Origin," U.S. Census Bureau, January 13, 2001.
15. Celinda Lake and Robert Borosage, "Money Talks," The Nation, August 21/28, 2000.
16. Peter L. Francia, et al., "Individual Donors in the 1996 Federal Elections," in Green, John C., Financing the 1996 Election, M.E. Sharpe, 1999
17. Philip Shenon, "Lobbyists Near Bankruptcy Bill Goal," New York Times, March 13, 2001.
18. ibid.
19. Center for Responsive Politics, politician profiles, www.crp.org.
20. A Responsible Energy Policy for the 21st Century, Natural Resources Defense Council (NRDC), February 2001.

Supreme Court, U.S.
FILED
JUN 2 ~ 2003
OFFICE OF THE CLERK

No. 02-1740

In the Supreme Court of the United States

VICTORIA JACKSON GRAY ADAMS, ET AL., APPELLANTS

v.

FEDERAL ELECTION COMMISSION, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

RESPONSE OF APPELLEES FEDERAL ELECTION COMMISSION, ET AL.

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QUESTIONS PRESENTED

In 2002, the President signed into law the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81. BCRA is designed to address various abuses associated with the financing of federal election campaigns and thereby protect the integrity of the federal electoral process. The questions presented by this appeal are as follows:

1. Whether appellants have standing to challenge the increased contribution limits established by Sections 304, 307, and 319 of BCRA.

2. Whether the increased contribution limits established by BCRA are constitutional.

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No. 02-1740

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FEDERAL ELECTION COMMISSION, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

RESPONSE OF APPELLEES FEDERAL ELECTION COMMISSION, ET AL.[1]

OPINIONS BELOW

The opinions of the district court are not yet reported.

JURISDICTION

The judgment of the district court was entered on May 2, 2003. Appellants' notice of appeal (J.S. App. 1a-2a) was filed on May 5, 2003. Appellants' jurisdictional statement was filed on May 29, 2003. The jurisdiction of this Court is invoked under the Bipartisan Campaign

[1] This response is filed on behalf of the Federal Election Commission (FEC) and David M. Mason, Ellen L. Weintraub, Danny L. McDonald, Bradley A. Smith, Scott E. Thomas, and Michael E. Toner, in their capacities as Commissioners of the FEC; John Ashcroft, in his capacity as Attorney General of the United States; the United States Department of Justice; the Federal Communications Commission; and the United States of America. Those parties are appellants in *Federal Election Commission* v. *Mitch McConnell, United States Senator*, No. 02-1676.

Reform Act of 2002, Pub. L. No. 107-155, § 403(a)(3), 116 Stat. 114.

STATEMENT

This case presents a facial challenge to the constitutionality of the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81. A three-judge panel of the District Court for the District of Columbia held that several provisions of BCRA violate the First Amendment to the Constitution, while sustaining other BCRA provisions against various constitutional challenges. The district court also held that the plaintiffs' challenges to certain BCRA provisions are not justiciable in this suit. Congress has vested this Court with direct appellate jurisdiction over the district court's decision. See BCRA § 403(a)(3), 116 Stat. 114.

Appellants Victoria Jackson Gray Adams, et al., challenged certain BCRA provisions that *increased* the pre-existing limits on individual contributions to candidates for federal office. Before BCRA was enacted, individuals were permitted to contribute up to $1000 per election to any candidate for federal office. 2 U.S.C. 441a(a)(1) (2000). BCRA increased that limit to $2000 per election to any federal candidate. See BCRA § 307(a)(1) (116 Stat. 102). That limit is indexed for inflation. See BCRA § 307(d) (116 Stat. 103); Henderson op. 339. In addition, Sections 304 and 319 of BCRA establish increased contribution limits when a candidate faces an opponent who expends substantial personal funds, beyond a statutory threshold amount, on his own campaign. See 116 Stat. 97-100, 109-112.

In the district court, appellants contended that the increased contribution limits established by Sections 304, 307, and 319 of BCRA violate the equal protection component of the Fifth Amendment by preventing non-

wealthy voters and candidates from participating on an equal basis in the electoral process. See Henderson op. 339. The district court dismissed those claims, holding that appellants lack standing to sue. See Per Curiam op. 10-11, 15; Henderson op. 338-342. Appellants now challenge that ruling. As of this date, 11 other jurisdictional statements arising out of the same district court judgment are pending before this Court. See *Mitch McConnell, United States Senator* v. *Federal Election Commission*, No. 02-1674; *National Rifle Association* v. *Federal Election Commission*, No. 02-1675; *Federal Election Commission* v. *Mitch McConnell, United States Senator*, No. 02-1676 (see note 1, *supra*); *John McCain, United States Senator* v. *Mitch McConnell, United States Senator*, No. 02-1702; *Republican National Committee* v. *Federal Election Commission*, No. 02-1727; *National Right to Life Committee, Inc.* v. *Federal Election Commission*, No. 02-1733; *American Civil Liberties Union* v. *Federal Election Commission*, No. 02-1734; *Congressman Ron Paul* v. *Federal Election Commission*, No. 02-1747; *California Democratic Party* v. *Federal Election Commission*, No. 02-1753; *AFL-CIO* v. *Federal Election Commission*, No. 02-1755; *Chamber of Commerce* v. *Federal Election Commission*, No. 02-1756.

DISCUSSION

Under Section 403(a)(3) of BCRA, the final decision of the district court in this case is "reviewable only by appeal directly to the Supreme Court of the United States." 116 Stat. 114. Pursuant to Section 403(a)(4) of BCRA, this Court is directed "to advance on the docket and to expedite to the greatest possible extent the disposition of the * * * appeal." 116 Stat. 114. In addition to filing our own jurisdictional statement (see

note 1, *supra*) to appeal the district court's rulings declaring certain provisions of BCRA to be invalid, appellees will defend on appeal those provisions of the statute that were the subject of appellants' constitutional challenge. Essentially for the reasons stated by Judge Henderson (see Henderson op. 340-342), appellants clearly lack standing to challenge the BCRA provisions that increase the pre-existing limits on individual contributions to candidates for federal office. In order to facilitate expeditious resolution of this case in accordance with the statutory mandate, however, appellees do not seek dismissal of the appeal, or summary affirmance of the district court's judgment, with respect to the court's disposition of appellants' claims.[2]

---

[2] On May 23, 2003, appellees filed a motion for expedited briefing schedule applicable to all then-pending appeals (see p. 3, *supra*) from the district court's judgment in this case. That briefing schedule should also be made applicable to the instant appeal.

CONCLUSION

The Court should note probable jurisdiction.

Respectfully submitted.

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Assistant General Counsels
Federal Election Commission

JUNE 2003

REFER TO 02-1674, MCCONNELL V. FEDERAL ELECTION COMMITTEE, FOR DOCUMENTS LISTED ON DOCKET BUT NOT ON FICHE

Docket for 02-1733
No. 02-1733 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Right to Life Committee, Inc., et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1734
No. 02-1734 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: American Civil Liberties Union, Appellant v. Federal Election Commission, et al. Docketed: May 29, 2003 Lower

Docket for 02-1753
No. 02-1753 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1755, 02-1756 Title: California Democratic Party, et al., Appellants v. Federal Election Commission, et al. Docketed: June 2, 1003

Docket for 02-1755
No. 02-1755 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1756 Title: American Federation of Labor and Congress of Industrial Organizations, et al., Appellants v. Federal Election

Docket for 02-1756
No. 02-1756 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755 Title: Chamber of Commerce of the United States, et al., Appellants v. Federal Election Commission, et al. Docketed:

Docket for 02-1675
No. 02-1675 Status: GRANTED Vide 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Rifle Association, et al., Appellants v. Federal Election Commission, et al. Docketed: May 15, 2003

Docket for 02-1676
No. 02-1676 Status: GRANTED Vide 02-1675, 02-1674, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Federal Election Commission, et al., Appellants v. Mitch McConnell, United States Senator, et al. Docketed: May

Docket for 02-1702
No. 02-1702 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: John McCain, United States Senator, et al., Appellants v. Mitch McConnell, United States Senator, et al.

Docket for 02-1740

No. 02-1740 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1747, 02-1753, 02-1755, 02-1756 Title: Victoria Jackson Gray Adams, et al., Appellants v. Federal Election Commission, et al. Docketed: May 30, 2003

Docket for 02-1747

No. 02-1747 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1753, 02-1755, 02-1756 Title: Ron Paul, United States Congressman, et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1727

No. 02-1727 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Republican National Committee, et al., Appellants v. Federal Election Commission, et al. Docketed: May 28, 2003

REFER TO 02-1674, MCCONNELL V. FEDERAL ELECTION COMMITTEE, FOR DOCUMENTS LISTED ON DOCKET BUT NOT ON FICHE

Docket for 02-1733
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Docket for 02-1734
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Docket for 02-1753
No. 02-1753 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1755, 02-1756 Title: California Democratic Party, et al., Appellants v. Federal Election Commission, et al. Docketed: June 2, 1003

Docket for 02-1755
No. 02-1755 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1756 Title: American Federation of Labor and Congress of Industrial Organizations, et al., Appellants v. Federal Election

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Docket for 02-1675
No. 02-1675 Status: GRANTED Vide 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Rifle Association, et al., Appellants v. Federal Election Commission, et al. Docketed: May 15, 2003

Docket for 02-1676
No. 02-1676 Status: GRANTED Vide 02-1675, 02-1674, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Federal Election Commission, et al., Appellants v. Mitch McConnell, United States Senator, et al. Docketed: May

Docket for 02-1702
No. 02-1702 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: John McCain, United States Senator, et al., Appellants v. Mitch McConnell, United States Senator, et al.

Docket for 02-1740

No. 02-1740 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1747, 02-1753, 02-1755, 02-1756 Title: Victoria Jackson Gray Adams, et al., Appellants v. Federal Election Commission, et al. Docketed: May 30, 2003

Docket for 02-1747

No. 02-1747 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1753, 02-1755, 02-1756 Title: Ron Paul, United States Congressman, et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1727

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Docket for 02-1733
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Docket for 02-1734
No. 02-1734 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: American Civil Liberties Union, Appellant v. Federal Election Commission, et al. Docketed: May 29, 2003 Lower

Docket for 02-1753
No. 02-1753 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1755, 02-1756 Title: California Democratic Party, et al., Appellants v. Federal Election Commission, et al. Docketed: June 2, 1003

Docket for 02-1755
No. 02-1755 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1756 Title: American Federation of Labor and Congress of Industrial Organizations, et al., Appellants v. Federal Election

Docket for 02-1756
No. 02-1756 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755 Title: Chamber of Commerce of the United States, et al., Appellants v. Federal Election Commission, et al. Docketed:

Docket for 02-1675
No. 02-1675 Status: GRANTED Vide 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Rifle Association, et al., Appellants v. Federal Election Commission, et al. Docketed: May 15, 2003

Docket for 02-1676
No. 02-1676 Status: GRANTED Vide 02-1675, 02-1674, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Federal Election Commission, et al., Appellants v. Mitch McConnell, United States Senator, et al. Docketed: May

Docket for 02-1702
No. 02-1702 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: John McCain, United States Senator, et al., Appellants v. Mitch McConnell, United States Senator, et al.

Docket for 02-1740

No. 02-1740 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1747, 02-1753, 02-1755, 02-1756 Title: Victoria Jackson Gray Adams, et al., Appellants v. Federal Election Commission, et al. Docketed: May 30, 2003

Docket for 02-1747

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Docket for 02-1727

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Docket for 02-1733
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Docket for 02-1734
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Docket for 02-1753
No. 02-1753 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1755, 02-1756 Title: California Democratic Party, et al., Appellants v. Federal Election Commission, et al. Docketed: June 2, 1003

Docket for 02-1755
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No. 02-1756 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755 Title: Chamber of Commerce of the United States, et al., Appellants v. Federal Election Commission, et al. Docketed:

Docket for 02-1675
No. 02-1675 Status: GRANTED Vide 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Rifle Association, et al., Appellants v. Federal Election Commission, et al. Docketed: May 15, 2003

Docket for 02-1676
No. 02-1676 Status: GRANTED Vide 02-1675, 02-1674, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Federal Election Commission, et al., Appellants v. Mitch McConnell, United States Senator, et al. Docketed: May

Docket for 02-1702
No. 02-1702 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: John McCain, United States Senator, et al., Appellants v. Mitch McConnell, United States Senator, et al.

Docket for 02-1740

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Docket for 02-1747

No. 02-1747 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1753, 02-1755, 02-1756 Title: Ron Paul, United States Congressman, et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1727

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